LIBERTY

DECLARATION OF PRINCIPLES

OF THE

Religious Liberty Association

1. We believe in God, in the Bible as the word of God, and in the separation of church and state as taught by Jesus Christ.

2. We believe that the ten commandments are the law of God, and that they comprehend man's whole duty to God and man.

3. We believe that the religion of Jesus Christ is founded in the law of love of God, and needs no human power to support or enforce it. Love cannot be forced.

4. We believe in civil government as divinely ordained to protect men in the enjoyment of their natural rights and to rule in civil things, and that in this realm it is entitled to the respectful obedience of all.

5. We believe it is the right, and should be the privilege, of every individual to worship or not to worship, according to the dictates of his own conscience, provided that in the exercise of this right he respects the equal rights of others.

6. We believe that all religious legislation tends to unite church and state, is subversive of human rights, persecuting in character, and opposed to the best interests of both church and state.

7. We believe, therefore, that it is not within the province of civil government to legislate on religious questions.

8. We believe it to be our duty to use every lawful and honorable means to prevent religious legislation, and oppose all movements tending to unite church and state, that all may enjoy the inestimable blessings of civil and religious liberty.

9. We believe in the inalienable and constitutional right of free speech, free press, peaceable assembly, and petition.

10. We also believe in temperance, and regard the liquor traffic as a curse to society.

For further information regarding the principles of this association, address the Religious Liberty Association, Takoma Park, Washington, D.C. (secretary, C. S. Longacre; associate, H. H. Votaw), or any of the affiliated organizations below:

AFFILIATED ORGANIZATIONS

Atlantic Religious Liberty Association (affiliated organizations in Maine, New Hampshire, Vermont, Massachusetts, New York, Rhode Island, and Connecticut): Office, South Lancaster, Mass.; Sec., W. H. Heckman.

Central States Religious Liberty Association (affiliated organizations in Kansas, Nebraska, Missouri, Colorado, Wyoming, Iowa, Minnesota, and North and South Dakota): Office, 4547 Calvert St., College View, Lincoln, Nebr.; Sec., J. F. Piper.

Columbia Religious Liberty Association (affiliated organizations in Pennsylvania, Ohio, New Jersey, West Virginia, Virginia, Delaware, and Maryland): Office, 507 Flower Ave., Takoma Park, Washington, D.C.; Sec., J. F. Neff.

Lake States Religious Liberty Association (affiliated organizations in Michigan, Illinois, Indiana, and Wisconsin): Office, Drawer C, Berrien Springs, Mich.; Sec., C. S. Joyce.

North Pacific Religious Liberty Association (affiliated organizations in Oregon, Idaho, Montana, Washington, and Alaska): Office, 202 South Palouse St., Walla Walla, Wash.; Sec., E. K. Slade.

Pacific Religious Liberty Association (affiliated organizations in California, Nevada, Utah, Arizona, and Hawaii): Office, Box 146, Glendale, Calif.; Sec., W. M. Adams.

Southern Religious Liberty Association (affiliated organizations in Alabama, Mississippi, North and South Carolina, Florida, Georgia, Kentucky, and Tennessee): Office, 437 East Ponce de Leon Ave., Decatur, Ga.; Sec., J. K. Jones.

Southwestern Religious Liberty Association (affiliated organizations in Arkansas, Louisiana, Oklahoma, New Mexico, and Texas): Office, Keene, Texas; Sec., R. L. Benton.

ORGANIZATIONS OUTSIDE U.S.A.

Canadian Religious Liberty Association: Office, 209-212 Birks Bldg., Winnipeg, Manitoba, Canada; Sec., W. B. Ochs.

Australasian Religious Liberty Association: Office, "Mizpah," Wahroonga, New South Wales, Australia; Sec., A. W. Anderson.

African Religious Liberty Association: Office, Grove Ave., Claremont, Cape Province, South Africa; Sec., L. L. Moffitt.

Central European Religious Liberty Association: Office, Postfach 39, Basle 9, Switzerland; Sec., A. Vollmer.

Northern European Religious Liberty Association: Office, 41 Hazel Gardens, Edgware, Middlesex, England; Sec., W. T. Bartlett.

Southern Asia Religious Liberty Association: Office, Box 35, Poona, India; Sec., R. B. Thurber.

Southern European Religious Liberty Association: Office, 49 Ave. de la Grande Armée, Paris 16, France; Sec., Dr. J. Nussbaum.

Philippine Island Religious Liberty Association: Office, Box 401, Manila, Philippine Islands; Sec., R. R. Figuhr.

LIBERTY

A MAGAZINE OF RELIGIOUS FREEDOM

EDITOR, Charles S. Longacre
ASSOCIATE EDITOR, Heber H. Votaw
MANAGING EDITOR, Thomas M. French
ASSOCIATE EDITOR, Calvin P. Bollman

CONTENTS

LIBERTY IS THE SUCCESSOR OF THE AMERICAN SENTINEL, WHOSE FIRST NUMBER WAS PUBLISHED IN 1886, AT OAKLAND, CALIFORNIA. ITS NAME WAS CHANGED IN 1906 TO LIBERTY, UNDER WHICH NAME IT HAS BEEN PUBLISHED QUARTERLY BY THE REVIEW AND HERALD PUBLISHING ASSOCIATION, TAKOMA PARK, WASHINGTON, D.C. ENTERED AS SECOND-CLASS MATTER MAY 1, 1906, AT THE POST OFFICE AT WASHINGTON, D.C., UNDER THE ACT OF CONGRESS OF MARCH 3, 1879. SUBSCRIPTION RATES.—ONE YEAR, 50 CENTS; CLUB OF FOUR OR MORE SUBSCRIPTIONS TO SEPARATE ADDRESSES, 25 CENTS EACH; FIVE OR MORE COPIES, MAILED BY PUBLISHERS TO FIVE ADDRESSES OR TO ONE ADDRESS, POSTPAID, EACH, 9 CENTS. NO SUBSCRIPTIONS FOR LESS THAN ONE YEAR RECEIVED. REMIT BY POST-OFFICE MONEY ORDER (PAYABLE AT WASHINGTON, D.C., POST OFFICE), EXPRESS ORDER, OR DRAFT ON NEW YORK. CASH SHOULD BE SENT IN REGISTERED LETTER. WHEN A CHANGE OF ADDRESS IS DESIRED, BOTH OLD AND NEW ADDRESSES MUST BE GIVEN. NO EXTRA CHARGE TO FOREIGN COUNTRIES.

VOLUME 32, NUMBER 2 SECOND QUARTER, 1937

Tinkering With the CONSTITUTION

A Proposed Amendment Which Presents a Most Sinister Threat to the Constitutional Liberties of the American People

A Casual Reading Fails to Reveal Its Evil Import

by HON. GEORGE A. WILLIAMS
(Former Lieutenant Governor of Nebraska)

MEN ARE SEEKING to cure the ills that plague the body politic by tinkering with the Constitution, by prescribing patchwork treatment to the fundamental law of the land. The greater part of the proposed amendments are offered by men who do not hesitate to speak with the utmost disrespect of that document, the palladium of our liberties. So frequent and so many are these proposals that tinkering with the Constitution promises to become an American pastime.

As American citizens, it is not only our privilege but our duty to give analytic scrutiny to every proposal that would in any way amend or alter the Constitution. For a century and a half the Constitution has been the wonder and admiration of the leading statesmen of the world. For a century and a half under the Constitution this country has grown and prospered as has no other country in the history of nations. The people of no other nation have ever enjoyed such blessings and contentment as have the people of this land. Multitudes, even in these depression times, have more of the comforts and luxuries of life than were ever dreamed of in ages past—all under the institutions growing out of our Constitution and safeguarded by the Supreme Court.

So, as fair-minded citizens, we do well to keep these facts in mind when ways are sought to correct the untoward conditions in our land, remembering, too, that those conditions of unrest and dissatisfaction are in all the world. Also, serious-minded men and women do well when they view with growing concern the storm of criticism and ridicule heaped upon the Constitution and the Supreme Court by men in high official position, who have taken a most solemn oath to support the Constitution, and who now seek to change it by amendment.

Particular attention is called to a resolution now pending in the national Congress, proposing an amendment to the Constitution relative to the jurisdiction of the Supreme Court in the matter of passing on the validity of the acts of Congress which, if adopted, would destroy one of the most cherished rights vouchsafed by the Constitution. The proposed amendment reads as follows:

"The Supreme Court shall have *original and exclusive* jurisdiction to render judgment declaring that any law enacted by Congress in whole or in part is invalid because it conflicts with some provision of the Constitution; but no judgment shall be rendered unless concurred in by more than two thirds of the Court, and unless the action praying for such judgment *shall have been commenced within six months after the enactment of the law.*"

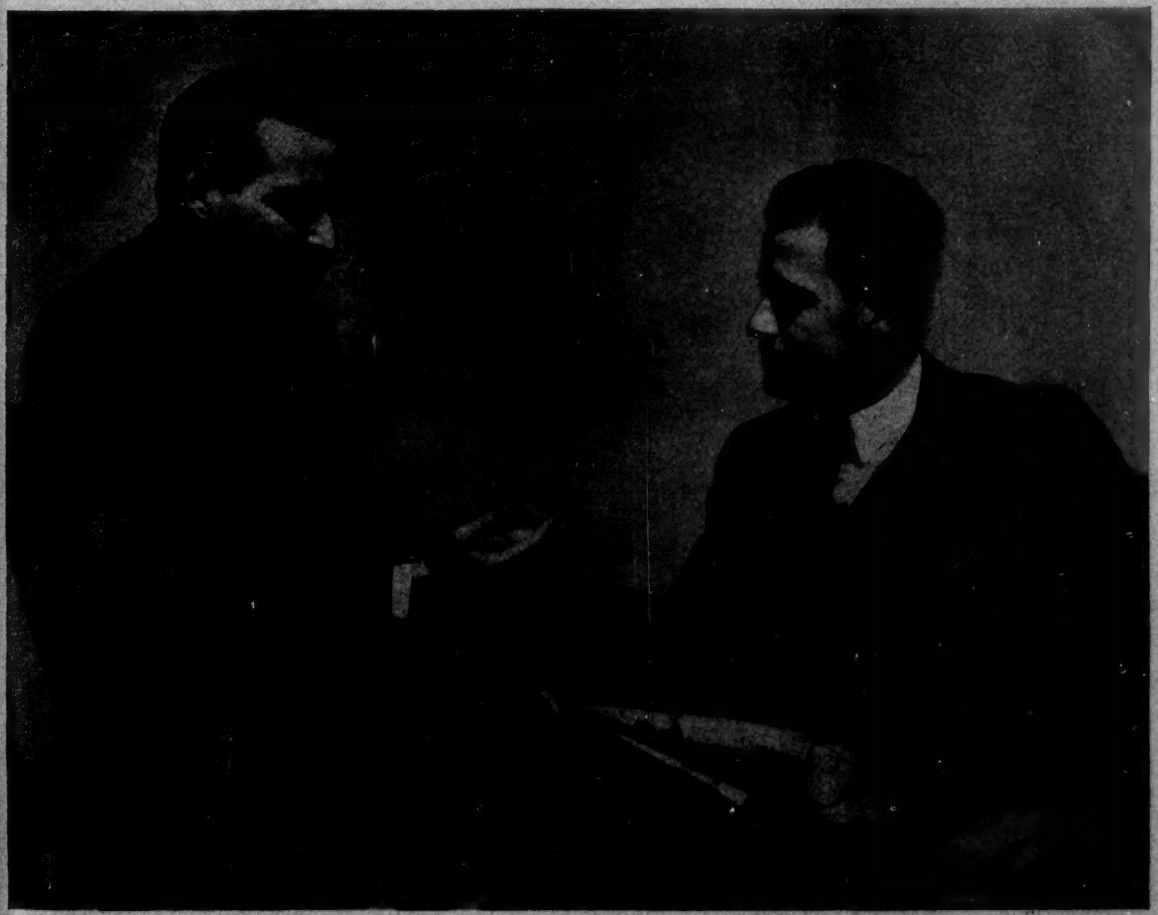
The proposed amendment was read twice and referred to the Committee on the Judiciary, where it is now pending. Whether or not the resolution was introduced in good faith and with right motives is not so much a matter of concern as is the question of the effect the amendment will have if adopted. Is it a good amendment or a bad one? What will be its effect? Will it do violence to the palladium of our liberties which we have cherished for a century and a half? In answering these questions let us be fair and give the friends of the proposed amendment credit for honest and sincere motives.

There are two points in the proposed amendment

to which special attention is invited. First note the words "original and exclusive." What do these words mean? They mean that the Supreme Court shall have the *first and only* right to pass on the question of the validity of the acts of Congress. Action to test the validity of an act of Congress could not be begun in any lower court. Neither could any lower court at any time pass on the validity of an act of Congress, for the Supreme Court would have *original and exclusive* right. That forever bars any lower court. That is plain enough.

Now let us see what the proposed change is from the present status of the individual right in such matters. The Constitution specifically and plainly guarantees every person the right of free speech, free press, religious freedom, security of life, of property, and of civil liberty; security from unreasonable search and seizure, the right of trial by jury, the right to vote, etc. Should the Congress or any legislative body pass a law violating any one or more of these constitutional guaranties, the individual may commence action to test the validity of the law in the district court of the county where he resides, and thereafter the case could be carried to the highest court of the land without the necessity of his leaving his own home, and at a minimum of expense.

But under this proposed amendment, if it should be adopted, the aggrieved citizen could not begin action in his home court or in any court nearer than the Supreme Court at the nation's capital. How many could stand the expense of such procedure? What chance would the average citizen have to maintain his constitutional rights if obliged to carry his case to Washington from the uttermost parts of the land and engage the services of high-priced attorneys licensed to practice before the Supreme Court? Not any. That provision of the proposed amendment amounts to an open and conclusive denial of the right of the average citizen to appeal to the courts for the protection of the rights vouchsafed to him by the highest constituted authority of the land. It would make a mockery of the boasted security of American citizenship which has won the plaudits of



H. A. ROBERTS, PHOTO

Do You Know, Mr. Average Citizen, That Under This Proposed Amendment You Would Be Denied an Appeal to the Courts for Protection of Your Natural Rights?

the greatest statesmen of modern times the world over.

And let us consider the second objectional part of the proposed amendment. "But no judgment shall be rendered . . . unless the action . . . *shall have been commenced within six months after the enactment of the law.*" In other words, if for any reason the law is not enforced for six months, or if for any reason the individual's rights are not affected by the law for six months after the law was enacted, and then later he is unjustly fined and thrown into prison under the law, and his constitutional rights and liberties are violated, he is forever stopped from appeal to the courts for redress. Sometimes a law does not take effect for six months or one year after its enactment, and very frequently for various reasons there is no enforcement of a law for many months after its enactment. But this proposed amendment says no judgment shall be rendered unless action shall have been commenced *within six months after the enactment* of the law.

If the process by which the constitutional rights of the American citizen are protected and perpetuated is destroyed or taken away, then the constitutional guaranties are so much chaff—they mean nothing. When the right of appeal to the Court is denied, then the inherent liberties for which mankind has labored and suffered through the ages are gone.

In a casual perusal of the proposed amendment by the average reader, the evil wrapped up in it may not be discerned; but a careful analysis reveals it to be, no matter what the intent and purpose of its supporters, the most sinister threat ever offered to the constitutional liberties of the American people. Under this proposed amendment to the Federal Constitution, liberty would be dead, and freedom would be gone, never to return.

The following statement by United States Senator Borah is deserving of more than casual attention from every American citizen. He said:

"Against the moral and spiritual forces embodied in this instrument [the Constitution] are arrayed all the forces in the world which war against liberty. The new scheme of life is under challenge by perhaps three quarters of the inhabitants of the globe. Why is it under challenge?—Because it gives liberty to individuals and gives to the people a voice in government. Because it itself is a challenge to all schemes of government which would take away that liberty and that voice. The battle is on. It is just as fierce and remorseless, just as plain and unmistakable, as it was in 1776 and 1789. In such a conflict let us believe it is not a mere legal document which may be amended or changed to meet changed conditions, but that it is a scheme of life, a conception of liberty, which we dare not surrender."

Conditions in the world and the things occurring in the world and in our own land indicate that a crisis is impending, a crisis fraught with danger to popular government and to the liberties of a free people. It is well at this time that the American people do some serious thinking. The United States is perhaps the most potent world force today for either good or ill. At this time there comes a challenge to the liberty-loving people of our country to stand loyally for those virtues of life and government that constitute our national greatness.

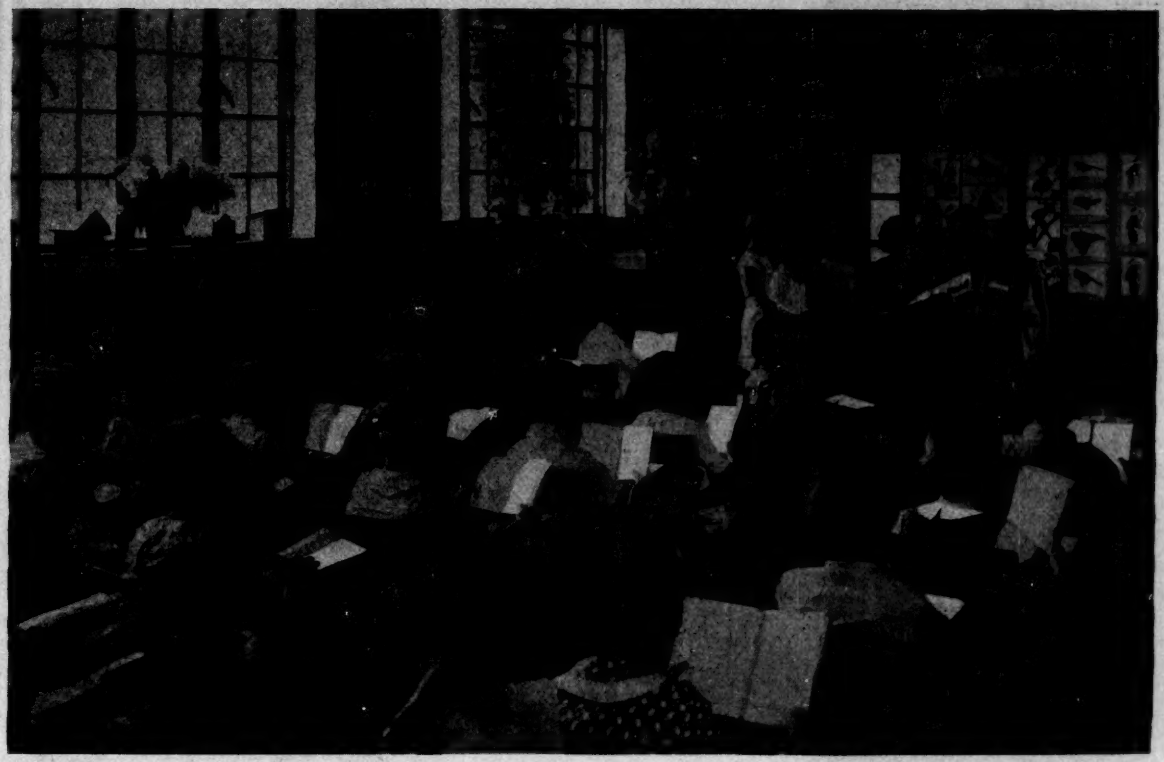
Hidden Dangers
to Both Catholics and Protestants
Should Public School Teachers Wear the Distinctive Garb of Religious Orders?

by HON. EDWARD L. O'CONNOR

[The author of this article was attorney general of the State of Iowa from 1933 to 1937. The conclusions which he has drawn cannot be attributed to religious prejudice, because Mr. O'Connor is a member of the Catholic Church and a fourth degree Knight of Columbus.

It is always gratifying to read the opinions of men who decide questions of public policy and good by the fundamental principles of Americanism in spite of any natural and understandable sympathy they may have for those against whom they are compelled to decide. We earnestly commend this article to all our readers.—EDITOR.]

WHILE I WAS attorney general of the State of Iowa, I was called upon to issue an official opinion as to the right of a nun to teach in the public schools. On October 10, 1936, I issued an opinion, as attorney general, holding that nuns wearing their



J. C. ALLEN PHOTO

"The Common Schools Cannot Be Used to Exalt Any Given Church or Sect or to Belittle or Override It"

distinctive religious or ecclesiastical garb could not legally teach in the public schools of the State of Iowa. My opinion was based under the authority of Knowlton vs. Baumhover, 166 N.W. 202, 182 Iowa 691, and O'Connor vs. Hendrick, 184 N.Y. 421, and the dissenting opinion of Justice Williams of the supreme court of Pennsylvania in the case of Hysong vs. District. The facts in the Pennsylvania case were as follows:

In a public school of eight apartments in the town of Gallitzin, the eight teachers were all Catholics. Six of them were Catholic Sisters. On days of obligation or holy days according to the Catholic calendar their schools were closed. In school, as elsewhere, they invariably wore the distinctive garb of their order, together with crucifix, rosary, and girdle. In each room, immediately after school hours, the children of Catholic parents were expected to remain and recite the catechism and receive religious instruction. The Sisters' contracts were signed by them in religious names, and not in their family names. In entering their religious life, these Sisters had taken vows of obedience and poverty, and their earnings were paid to the Mother Superior or the Sister in charge of the house to which they had been assigned under the rules of their order. Children of Protestant parents objected to attending the schools taught by the Catholic Sisters, but their objections were overruled, and they were compelled to yield on pain of expulsion.

The majority of the court of Pennsylvania enjoined the teaching of the catechism and the giving of religious instruction in the school buildings, but held that the showing was insufficient to prove that the conduct of the school proper was sectarian in any objectionable sense. They further held that the Sisters had a legal right to enter into contracts to teach and to accept and receive and control their salaries. The majority of the court held that the turning over of their salaries to their order was the making of a voluntary donation which the law did not prohibit. The majority further held that the wearing of the ecclesiastical garb was none of the business of the courts. The majority further stated that the same objection could be made to a Protestant teacher who was wearing the emblem of the Epworth League or Christian Endeavor Society. However, Justice Williams of this Pennsylvania court wrote a very strong dissenting opinion, which in its substantial parts is as follows:

Pennsylvania Case

"The eight teachers are members of the same church or sect. This is unusual, but not unlawful. Six of the teachers presiding over six departments are nuns of the Sisterhood of St. Joseph. They have renounced the world, their own domestic relatives, and their property, their right to their own earnings, and the direction of their own lives, and bound themselves by solemn vows to the work of the

church and to obedience to their ecclesiastical superiors. They have ceased to be civilians or secular persons. They have become ecclesiastical persons, known by religious names and devoted to religious work.

"Among other things by which their separation from the world is emphasized and their renunciation of self and subjection to the church is proclaimed, is the adoption of a distinctively religious dress. This is strikingly unlike the dress of their sex, whether Catholic or Protestant. Its use at all times and in all places is obligatory. They are forbidden to modify it. Wherever they go, this garb proclaims their church, their order, and their separation from the secular world as plainly as a herald could do if they were attended by such persons.

"The question presented in this state of facts is whether a school which is filled with religious or ecclesiastical persons as teachers, who come to the discharge of their daily duties wearing their ecclesiastical robes and hung about with rosaries and other devices peculiar to their church and order, is not necessarily dominated by sectarian influences and obnoxious to our constitutional provisions and the school laws. This is not a question about taste or fashion in dress or about the color or cut of a teacher's clothing. It is deeper and broader than this. It is a question over the true intent and spirit of our common-school system, as disclosed in the provisions referred to.

"If this is a proper administration of the school laws in Gallitzin, it would be equally so in any other school district in the State, and if every common school was presided over by ecclesiastics in their distinctive ecclesiastical robes, supplying pupils with copies of their catechism and teaching it before and after school hours to all who choose to remain for that purpose, it seems to me very plain that the common schools would cease to be such, and would become for all practical intents and purposes parochial schools of the churches whose ecclesiastics presided over them.

"The common schools are supported by general taxation. The Catholic, the Protestant, the Jew, and the infidel help support them and have an equal right to their benefits. The common school cannot be used to exalt any given church or sect or to belittle or override it, but they should be, like our political institutions, free from ecclesiastical control and sectarian tendencies."

Justice Weaver, of the Iowa Supreme Court, in commenting upon the majority opinion of this Pennsylvania case, stated as follows:

"If the admitted facts there being considered do not clearly and emphatically show those schools to have been under sectarian domination, and permeated throughout by an all-pervading sectarian influence, it would be interesting indeed to know what proof would be regarded as sufficient to establish such fact."

New York Ruling

The next important case of this nature arose in the State of New York. There the State superintendent of public instruction adopted a rule forbidding any school teacher to wear any distinctive ecclesiastical garb or insignia while engaged in teaching in the public schools. This rule was objected to by the Catholics, and the matter was brought before the supreme court of New York in the case of O'Connor vs. Hendrick. The supreme court of New York held that the State superintendent had adopted a reasonable and proper rule, and thus denied the right of nuns to teach in the public schools while wearing their particular ecclesiastical garb. The New York Supreme Court refused to follow the majority opinion in the Pennsylvania case, but did highly approve of the dissenting opinion as written by Justice Williams. The salient part of the New York decision is contained in the following language used by the court:

"Here we have the plainest declaration of the public policy of the State as opposed to the prevalence of sectarian influences in the public schools. The regulation established by the State superintendent of public instruction through the agency of his order in the Bates appeal is in accord with the public policy thus evidenced by the fundamental law. There can be little doubt that the effect of the costume worn by these Sisters of St. Joseph at all times in the presence of their pupils would be to inspire respect, if not sympathy, for the religious denomination to which they so manifestly belong. *To this extent the influence was sectarian, even if it did not amount to the teaching of the denominational doctrine.*"

An Iowa Opinion Rendered

The next important case that arose was the Iowa case. The Maple River Township district school of Carroll County, Iowa, entered into a ten-year lease with the proper authorities of a parochial school located near by, according to the terms of which all the children in the district were to attend and receive instruction at the parochial school. A nominal rent of $2.50 a year was included in the lease. This nominal rent was never collected or paid. Two Sisters were employed by the public-school board to do the teaching. These Sisters were paid regular salaries.

At the time the case got into court, it appears that no religious instruction was given during school hours, but children of Catholic parents were required to receive religious instruction from the priest in the church which was located near by. An injunction was brought to restrain the school board from using the public funds of the school corporation to pay these nuns as teachers, and also to direct the public-school board to secure another building where the public-school children were to receive their public-school education. The supreme court

The Public Schools of America Are Supported by General Taxation. The Catholic, the Protestant, the Jew, and the Infidel Help to Support Them, and Have an Equal Right to Their Benefits. They Should Be Entirely Free From the Control of Any Denomination

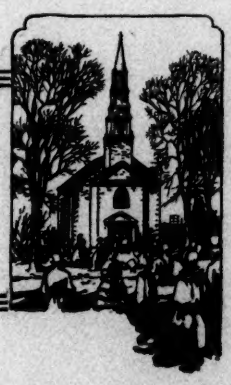
of Iowa granted the relief prayed, and followed the reasoning of Justice Williams in the Pennsylvania case and the New York Supreme Court decision. I quote from the opinion of Justice Weaver in this Iowa case:

"We unite with the New York court in the view that the opinion of Williams, J., is more nearly in accord with the true spirit and principle of the law. . . . This principle of unfettered individual liberty of conscience necessarily implies, what is too often forgotten, that such liberty must be so exercised by him to whom it is given as not to infringe upon the equally sacred right of his neighbor to differ with him. To that end it is fundamental that the law itself shall be free from all taint of discrimination, and that the State shall be watchful to forbid the use or abuse of any of its functions, powers, or privileges in the interest of any church or creed. . . .

"If there is any one thing which is well settled in the policies and purposes of the American people as a whole, it is the fixed and unalterable determination that there shall be an absolute and unequivocal separation of church and state, and that our public-school system, supported by the taxation of the property of all alike,—Catholic, Protestant, Jew, Gentile, believer, and infidel,—shall not be used directly or indirectly for religious instruction, and above all that it shall not be made an instrumentality of proselyting influence in favor of any religious organization, sect, creed, or belief. So well is this understood, it would be a waste of time for us at this point to stop for specific reference to authorities or precedents or to the familiar pages of American history bearing thereon. . . .

"It is worth while also to note that in a large proportion of the cases where the courts have excluded Bible reading and other religious and sectarian exercises and practices from the public schools, the suits have been brought by or on behalf of Catholic complainants, and they have been allowed to prevail solely upon the theory that the law excludes from our public schools all religious and sectarian teaching and training, Protestant and Catholic alike; and surely, having invoked the application of this principle, and thereby debarred from the schools those things which savor of Protestant sectarianism, they cannot consistently complain if they are subjected to the operation of the same rule. . . .

"What we have said with reference to this case we would repeat with no less emphasis if the parochial school in question were under the patronage of the followers of Martin Luther or John Calvin or John Wesley, or other Protestant leadership. The cry which is sometimes heard against the so-called 'Godless school' is raised not by Catholics alone, and in not a few Protestant quarters there are manifestations at times of a disposition to wear away constitutional and legal restrictions by constant attrition, and bring about in some greater or less degree a union of church and state. But from whatever source they appear, such movements and influences should find the courts vigilantly on guard for the protection of every guaranty provided by Constitution or statute for keeping our common-school system true to its original purpose."



Under the American System of Government, the Church Functions Entirely Independent of the Civil Power. One of the Functions of the State Is That of Providing Education for All of Its Citizens, Regardless of Religious Belief

North Dakota Case

The latest case on record is that of Gerhardt vs. Heid, reported in 267 N.W., p. 127. This last case arose from the Gladstone School District in Stark County, North Dakota. It appears that four of the teachers in this consolidated school district were nuns belonging to the Sisterhood of St. Benedict. No complaint was made about religious exercises or instructions given. A Catholic priest testified that these Sisters might be released from the requirement to wear the garb while they were on duty as teachers. These Sisters ordinarily wore their black garb with a rosary hanging from their sides from a belt, but the priest testified that this was not obligatory. The rosary was worn by the Sisters during the first four days of school. After that it appears that the rosary was not worn.

An injunction was brought to prohibit the school board from paying these Sisters and from permitting them to wear their ecclesiastical garb while on duty as teachers. The supreme court of North Dakota refused to grant such relief, and in handing down their decision they followed the majority opinion in the Pennsylvania case. Thus we have four State supreme courts equally divided upon the right of a nun to wear her ecclesiastical garb to teach in the public schools.

Parochial-School Situation in Ohio

It has been called to my attention that attempts have been made in Ohio to get the legislature to pass laws granting financial relief to parochial schools within the State of Ohio. No doubt this tax relief was asked on the theory that it would be for the benefit of the education of the children, and not directly for the benefit of any church. Practically every State in the Union has laws prohibiting the use of public funds for sectarian purposes. We all must admit that parochial schools are under sectarian influence and control, and exist for sectarian as well as educational purposes. State aid for private or parochial schools would constitute taxation for the purpose of the establishment or propagation of religion. Such laws would be in violation of constitutional provisions, and also contrary to public policy.

It appears to the writer that the dissenting opinion of Justice Williams in the Pennsylvania case, the holding of the New York Supreme Court, and the decision of the supreme court of Iowa, are more

(*Continued on page 28*)

Areas of Liberty Contracting

The Right to Worship and to Propagate Religious Faith

by GWYNNE DALRYMPLE
Member of New Hampshire Bar

THE AREAS OF LIBERTY are perpetually contracting. In many countries and in many climes, peoples are turning away from the burdens of democracy to accept the delusive comforts of despotism. More and more the nations worship at the shrine of the Supreme State. Dictatorships, under various guises and various titles, are established on every continent. We do not challenge the right of people to bow to tyranny, if tyranny best pleases them. We merely point out that no people can at the same time bow to tyranny and preserve liberty. These are incompatible, and cannot be grasped at once. And the most significant fact of our times is this, that more and more the millions are wearied of freedom, and willing to barter away their rights, often for a very small mess of pottage. The areas of liberty are perpetually contracting.

It was not always so. There was a time—I am sure you can remember it—when all the world was tending toward democracy. The matter of human rights had been lifted high, and all nations were flocking under its folds. Feudal kingdoms had resigned their ancient prerogatives, and had become constitutional monarchies. In many lands even the form of royalty had vanished in the turbulence of revolution, and in its place had arisen parliaments elected by popular choice. Along with political liberty came also a recognition of those broader and even more essential rights,—the right of free speech, the right of free assembly, and freedom to worship God.

Those days of splendid and virile democracy have ended in the twilight of that sullen darkness which is rapidly enveloping our world. It seems that we who were living to witness the triumph of democracy will also live to witness its dismal eclipse. But, thank God, we may yet be glad that in our own land, and in some few others, the right of the individual to obey his conscience is still revered. We wish especially to examine the question of religious liberty, now called into jeopardy in Europe and on other continents.

In lands where religious liberty is yet recognized, how may it be retained?—Only by realizing where the rights of the state end and those of the church begin. An excellent summary of our duty to both these institutions comes from that greatest of religious leaders, Jesus Christ: "Render unto Caesar the things which are Caesar's," He said, "and unto God the things that are God's." That is to say, there are two classes of duties, one class which a man owes to the state under which he lives; the other class which he owes to his church and his God.

The state may justly require certain things of the individual. It may levy taxes. It may punish crime. It may enact measures for the protection of the food and water supplies and for general sanitation. It may justly make education compulsory. It may establish judiciaries for executing justice between citizens. It may provide an army and navy for national defense.

But there are other spheres of activity, in which the state has no place. Particularly is this true in the realm of conscience. The state has no right, under the conceptions of liberty and democracy, to require any man to attend a place of religious assembly. It has no right to coerce men into an expression of belief or disbelief in any form of creed. If it has no right to do these things directly, it also has no right to do them indirectly.

It cannot indirectly urge men to attend church by passing legislation prohibiting ordinary activities on a day which the majority of the community consider sacred. To be sure, long custom may have led many courts to acquiesce in such legislation; but we submit that such legislation is really an infringement by the governing power on the realm of religious faith. If the state wishes to provide, as a health measure, that employees shall enjoy a certain period of rest one day in a week, it is proper to do so; but to attempt to ordain that that rest shall take place on one certain day, and not on another, for religious reasons, is attempting to interfere with the consciences of those who hold another form of faith, or those who may not hold any form of faith at all.

Religious organizations, and persons of a religious turn of mind, likewise have their privileges and rights. The first of these, and that most generally conceded, is the right to worship God in such form as conscience may dictate. To be sure, a person may not, under the guise of religion, violate the persons or liberties of his neighbors. But his own beliefs and religious practices should not be subject to censorship by the government so long as he behaves himself in his civil duties. Theology and legislation do not mix. And any effort by one to control or adjust the other results in tyranny, which may be small and obscure at first, but which slowly and surely will assume larger and even terrifying proportions.

Freedom of speech as well as freedom of conscience requires that a man be free to proclaim the One whom he adores. If he can persuade other persons to accept that faith, that is no business of the state. The comparison and interchange of religious views is a privilege to which every religious organization and every religious person—and in this we would include even the atheist—is entitled. Any effort by the state to curb or check this right, or to punish the exercise of it, will result only in the formation of two classes,—those whose religion is favored by the powers that be, and those whose religion is not so favored.

A man can come to God only by conscientious conviction. The church, in prosecuting the duties which she believes God has entrusted to her, is not entitled to lean upon the state. If her own spiritual resources are insufficient for the task which she believes is divinely hers, she will do well to examine herself to ascertain why her divine endowment is not larger. But for her to take the attitude that since her faith, and no other, is right, the government should therefore favor her with financial emoluments, and enactments against those who oppose her, is a mistaken view of her real work. The church is to convert men, not to rule them.

"The Church in Prosecuting the Duties Which She Believes God Has Entrusted to Her, Is Not Entitled to Lean Upon the State." Her Functions Are Entirely Separate and Distinct. This Principle Was Laid Down by the Saviour of Men

Indeed, we may add that the less the church has to do with politics, the better off both she and the politics will be. The itch to meddle in worldly affairs has smitten more than one ecclesiastic, and the result has never been a happy one. The farther the church stays away from political parties, political insignia, and political war cries, the better she will be able to fulfill her spiritual functions. For the whole experience of the past proves that the church has never been able to dabble in the mud of politics without getting her fingers dirty. A firm neutrality toward all issues of partisan politics should characterize the church. When direct moral issues are concerned, she may perhaps justly lift her voice to be heard; even then she will do well to avoid all entangling alliances, and to remember that her kingdom is not of this world.

What is the function of the state?—Governing men in their secular and worldly relationships. What is the function of the church?—Revealing to men religious truth and leading them to conscientious conformity to the will of God as they understand it.

It is well to remember that our own liberties are secure only while those of others are secure. So the liberties of any one faith are secure only while those of all faiths are secure. Let all American religious bodies unite, therefore, in preserving that freedom to worship God which justly belongs to all. Let the state leave to all her citizens that right which God gave them, and for which they are responsible to Him alone,—freedom to worship God.

Millions Spent *In and For Church Schools*

By the Federal Government

by JOHN GARLAND POLLARD
Former Governor of Virginia

SEVERAL MONTHS AGO there was published quite generally throughout the country an appeal which I made to my brother Baptists under the title, "To the Dikes! To the Dikes! O Baptists!" It was a discussion of the propriety of acceptance by Baptist colleges of certain allotments made by the National Youth Administration of the Federal government. Though addressed to Baptists, it applied to all other churches which believe in the doctrine of the separation of church and state.

I referred to the fact that church colleges—some 700 in number—were receiving each month their pro-rata share of approximately $1,500,000, with which the colleges were authorized to pay student employees for work done for the college or in the community in which the college operated. I said that the colleges were using this fund to pay employees for clerical and office work, assisting in libraries, museums, and laboratories, and in reading and marking papers for professors, etc.

I said that our denominational colleges, in accepting the services of assistants to professors, librarians, etc., were receiving a governmental subsidy; that subsidies might be in the shape of cash, goods, or services; and that if church colleges must refuse on principle to allow the government to pay the salaries of its professors, its librarians, and its business managers, then, on principle, they must refuse to allow the government to pay those who assist those college officials.

I said that I did not wish to be understood as expressing the opinion that the receiving of these services from the Federal government, if temporary, was of and by itself disastrous, but that subsidies have a way of growing, and if they were extended or made permanent, there was real danger of a more serious alliance between the government and the church institutions,—a backward step toward a union of church and state, against which all history warns.

Since I wrote the article, two things of significance have happened which show that my fears were not unfounded:

First, a survey has been made of the attitude of the denominational colleges administering these allotments; and,

Second, a bill has been introduced into Congress, designed to make the arrangement permanent.

The survey shows that a majority of the denominational institutions desire the alliance to be continued indefinitely, and that a majority prefer that the institutions be allowed to administer the funds allotted, free from the present restrictions and as each institution may think best for the cause of education.

Until the survey was made, I had hoped that these denominational colleges would look on the arrangement as a temporary one, to be used in the depression only to aid needy students; and that the institutions themselves would see the violation of principle involved and the danger to themselves of receiving permanently government subsidies. This, however, proved not to be the case, and we shall doubtless find the colleges of the country strongly behind the bill now pending in Congress, to make the alliance permanent and to finance it more heavily. The bill is known as H.R. 4611, introduced by Mr. Voorhis.

In the Washington *Post* of February 11 it is stated that the same bill would be introduced by Senator Lundeen and Representative Maverick. It provides for the appropriation of $500,000,000 for vocational guidance, vocational training, and employment opportunities for youth between the ages of sixteen and twenty-five, and for increased educational opportunities for high school, college, and postgraduate students, etc., and sets up a commission to administer the fund. This commission must, under Section 5 of the bill, establish a system of academic work projects to be conducted in and near all colleges, just as is now done by the National Youth Administration.

Now the real danger of the bill is its departure from the traditional American policy of confining educational appropriations to State schools, and prohibiting appropriations to church and private schools. In general it may be said that the Federal government has not heretofore made appropriations to church schools, nor have the governments of the States. The point is made, however, that inasmuch as the present plan of the NYA and the proposed plan of the pending bill make no discrimination among the denominations, but apply to the educational institutions of all alike, there is no danger in the plan.

Putting aside, for the moment, the fact that the principle of separation of church and state means not only that the State shall make no alliance with

one church, but likewise excludes alliance with all churches, it is a well-known fact that nearly all the church schools of this country (perhaps more than 90 per cent) belong to the Catholic Church. Therefore that church, though representing only about one sixth of the people, would receive 90 per cent of the Federal funds going to church schools. Such a condition would bring about bitter and interminable religious jealousies, and put the churches heavily into politics, which all good Protestants and Catholics would alike deplore.

In this connection there should also be considered the Black-Harrison-Fletcher bill providing for Federal aid to schools. Under this bill it is proposed that $300,000,000 be apportioned annually among the States on the basis of school population (ages five to twenty), regardless of whether that population be enrolled in the public schools. If any State should attempt, in the administration of its part of this fund, to restrict its use to public schools and exclude the church and private schools from its benefit, it would be met with the irresistible logic of the argument that the pupils enrolled in the church and private schools had been used as a basis of apportionment of the Federal funds, and therefore it would be unfair to use exclusively for the public schools that part of the money given by the Federal government to each State on account of pupils enrolled in such church and private schools.

To illustrate, Ohio is reported to have about 180,000 children in private and parochial schools, and a very large percentage of these (perhaps 150,000) are said to be in the Catholic schools. On account of these 150,000 Catholic pupils, the State of Ohio would receive, under the bill, approximately $1,000,000 annually from the Federal government *more* than it would receive if these Catholic children were not counted in the apportionment. How could the State, therefore, in equity and good conscience, exclude these 150,000 Catholic children from participation in the fund which was appropriated on their account?

The States, by refusing to make appropriations to church schools, have by implication announced the policy that the State will aid in educating only those who elect to take advantage of the facilities furnished in the State schools, and that those who prefer to patronize church or private schools must do so wholly at their own expense. The Federal government, however, on the other hand, by its present administration of the National Youth funds and under the theory behind the pending bills above referred to, will tend to drive the States away from their traditional policy, because the Federal funds are evidently intended to aid church and private as well as State schools.

The great question presented by the present situation is whether any tax money shall be used to aid religious denominations in establishing and maintaining schools existing, in part at least, for the advancement of their denominational or sectarian interests.

In short, the Federal government is injecting into the management of the schools of this country the troublesome question which we all hoped had been settled a century and a half ago by the establishment in America of the doctrine of separation of church and state, which means that no tax money shall be used for the churches or any of their institutions.

The Measurement of Time

by F. C. GILBERT

THE PROPONENTS of the twelve and thirteen month revised calendars, who advocate the blank-day plan in the ordinary year and two blank days in leap years, advise, in their discussion of this prospective change in the calendar, that a large number of the ails and ills which at present affect the nations of earth may, to quite an extent, be overcome by revising the calendar. These calendar reformers argue that if a united, harmonious plan can be agreed upon by the inhabitants of the different countries, a spirit of good will and amiability will influence the varied populations.

It might not be out of place to give further consideration to the blank-day proposition before the pleaders for its insertion into the calendar take a final stand. It should be remembered that time and its disposition are not the property of mortals. Man did not make time, nor is he able to control it. This inestimable blessing did not originate with man, nor can he change or dispossess it.

Man has the ability to make a watch, a chronometer, a barometer, and other useful objects which have to deal with time. These instruments have their uses, and in their place they are of inestimable value. But none of them can supplant the purpose of the Creator in originating time, nor can an arrangement of a calendar not in harmony with the original divine design of time, usurp the authority

vested in the One who alone has the ability to maintain time in its onward course.

The Original Weekly Cycle

Time was first measured off by the Almighty. God is the possessor of heaven and earth. The Creator placed the central clock for the solar system far above the reach of mortals. He has filed His arrangement for the continuation of time, in the following language:

"God said, Let there be lights in the firmament of the heaven to divide the day from the night; and let them be for signs, and for seasons, and for days, and years." Gen. 1:14.

Day and night originated with the Creator. The Almighty Himself first gave the names to day and night, as may be observed by the following language:

"God called the light Day, and the darkness He called Night. And the evening and the morning were the first day." Verse 5.

The Hebrew for the latter sentence in the just mentioned verse more literally translated would read:

"*There was an evening, and there was a morning, one* day."

The Almighty, when He arranged the darkness and the light, gave names to these two periods which He designated "one day." And from that first day of time until the present day, light and darkness have followed each other in direct succession; and these two will and must continue in their regular daily successive march as long as the earth shall remain. The Creator Himself assured the only family who survived the deluge of the antediluvians:

"While the earth remaineth, seedtime and harvest, and cold and heat, and summer and winter, and day and night shall not cease." Gen. 8:22.

Man has been assured of the permanency of this earth, in the following words:

"Thy faithfulness is unto all generations: Thou hast established the earth, and it abideth." Ps. 119:90.

He "laid the foundations of the earth, that it should not be removed forever." Ps. 104:5.

Time Was Measured Off by the Almighty

"One generation passeth away, and another generation cometh: but the earth abideth forever." Eccl. 1:4.

The divinely inspired record furthermore declares, in regard to light and darkness:

"The day is Thine, the night also is Thine: Thou hast prepared the light and the sun." Ps. 74:16.

When the original days were brought into existence, they were successively followed one by the other, until we reach the last one, which the Creator called "the seventh day." These days are spoken of as follows:

"The evening and the morning were the first day." Gen. 1:5.

"The evening and the morning were the second day." Verse 8.

"The evening and the morning were the third day." Verse 13.

"The evening and the morning were the fourth day." Verse 19.

"The evening and the morning were the fifth day." Verse 23.

"The evening and the morning were the sixth day." Verse 31.

"And on the seventh day God ended His work which He had made; and He rested on the seventh day from all His work which He had made. And God blessed the seventh day, and sanctified it: because that in it He had rested from all His work which God created and made." Gen. 2:2-3.

"From even unto even, shall ye celebrate your Sabbath." Lev. 23:32.

An unbroken chain of days, from one to seven, each given its own numeral, each directly following the one preceding it, was introduced by the Almighty at the very beginning of creation. This orderly arrangement of the days was not introduced as an experiment, to be rearranged at some future time if it was not a success. No mortal was present when these days originated, except in the latter part of the sixth and on the seventh day. Man had no part in the making of these days, nor was he considered essential to their origin. The Creator designed and put into effect these seven consecutive days, without consulting any human being. This order of the days was established in perpetuity. And these successive days must follow one another in their divinely regulated succession, beginning with the first day through till the seventh, without any interruption.

There can be no interruption of these permanently fixed days as long as the instruments made effective for their perpetuity are uninterrupted. The Creator made the sun, moon, and stars "for signs, and for seasons, and for days, and for years." Gen. 1:14. As long as the sun, moon, and stars continue in their orderly course, day must follow night and night must follow day.

No record is left of these heavenly agencies' failing to respond to their duties. None of these celes-

tial bodies have been lost or have become disabled. The steady onward march of time is unfailing. Time can be neither changed nor lost.

In a lecture delivered by Prof. Harlow Shapley, director of the Harvard Observatory, before a large audience in Boston, given under the auspices of the Society of Arts of the Massachusetts Institute of Technology, that gentleman remarked:

"The day gets one thousandth of a second longer every thousand years."—*Boston Post, Dec. 15, 1924.*

Time must continue many tens of thousands of years before one second of time can go astray.

What the Blank Day Would Involve

If the blank day should become part of the revised calendar, the successive days as arranged at creation would be thrown into confusion. In the ordinary year of 365 days, one day of the year would be thrown aside, whereas in the leap year of 366 days, two days in the year would be cast away. If the last day of the first year of the operation of such a revised calendar should be a blank day, the order of the days instituted by the Creator at creation would be invalid. Since this last day of the year falls on Sunday, the first day of the week, and since to arrange the calendar by equal weeks it is necessary always to begin the first day of the new year with the first day of the week, it would be necessary to set aside the first day of the week of that year, and call Monday, according to the present calendar, the first day of the week in the new year. To call a day which the Almighty created to follow the preceding one, a blank day, is an attempt to nullify the arrangement of the Creator. Is it possible that erring mortals will dare offer such an insult to their Maker?

When the world was created, the days of the weekly cycle were given numerals. Names of days *such as we now have were impossible at creation, for* the creation of the sun and moon did not come on the first and second days, *but followed in order after* the second and third days. Although these ancient original numeral days were later given names, those named days are exactly the same as the original numerals given at the time of creation. For a calendar to declare that following the seventh day, Saturday, would be a blank day, and the day following would be Sunday, the first day of the week, in order to begin a new week and a new year, would be not only an innovation, but a falsification of the divine plan of the rotation of days.

In the leap year of 366 days, the innovation would create two blank days.

The Covenant of the Almighty

That man might understand the Creator's attitude toward the succession of day and night, the Almighty entered into a thrice-repeated covenant with day and night, as recorded in the following language:

Moses Before Pharaoh

"Thus saith the Lord: If ye can break My covenant of the day, and My covenant with the night, and that there should not be day and night in their season."

"Thus saith the Lord: If My covenant be not with day and night, and if I have not appointed the ordinances of heaven and earth."

"Thus saith the Lord, which giveth the sun for a light by day, and the ordinances of the moon and of the stars for a light by night. . . . The Lord of hosts is His name."

The Almighty declares that these days and nights must continue in their orderly succession, as He planned and originated. To introduce blank days into the calendar would be an attempt to destroy the covenant which Jehovah made with the day and the night. Shall erring mortals dare such an attempt? Who will undertake to challenge the Creator of the heavens and the earth?

The God of heaven declared to the patriarch Abraham that the latter's posterity should be enslaved during four generations, at the end of which period they would be liberated from their serfdom. That the patriarch might be assured that God would fulfill His promise to Abraham's posterity, "in the same day the Lord made a covenant with Abraham."

The time arrived when that covenant must meet *its fulfillment. The King of heaven sent His messenger,* Moses, to Pharaoh, king of Egypt, demanding that the Israelites be released from their slavery. The haughty Egyptian king insultingly replied to the one whom God had chosen as His messenger:

"Who is the Lord, that I should obey His voice to let Israel go? I know not the Lord, neither will I let Israel go." Ex. 5:2.

Within a year that nation suffered ten dreadful plagues, until Egypt was well-nigh devastated. When the king finally thrust the people out of his country, he undertook to bring them back into Egypt and again to make slaves of them. Egypt met its Waterloo at the Red Sea, when the king, with his entire army of thousands of men, sank beneath the waters. To challenge the covenant of the Almighty is to invite disaster and destruction.

Constitutional "General Welfare"

What Are Its Limitations?

by the EDITOR

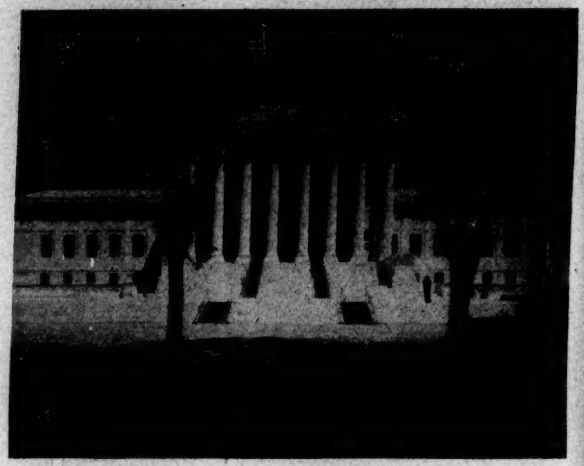
THE PREAMBLE to the Constitution of the United States expressly states: "We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defense, promote the *general welfare,* and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

Article I, Section 8, further states: "The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and *general welfare* of the United States."

In neither place in the Constitution are we told how much is embraced in the phrase "the general welfare of the United States."

At present this question is being heatedly debated in the Congress of the United States. Some of the acts of Congress which were enacted during the last session in pursuance of "the general welfare" clause of the Constitution, have been declared unconstitutional by the Supreme Court of the United States. Naturally this has irritated some of the Congressmen, and they have been tempted to curtail the powers of the Supreme Court so that it may not declare an act of Congress unconstitutional.

It has been a well-established rule that it is the province of the Supreme Court to determine the meaning of the Constitution. The Supreme Court has declared very few acts of Congress unconstitutional during the past one hundred fifty years compared with the vast amount of legislation enacted by Congress during this period. The Supreme Court has studiously endeavored to avoid declaring acts of Congress unconstitutional, and according to its own statement, has steadfastly adhered "to the rule that every possible presumption is in favor of the validity of an act of Congress until overcome beyond rational doubt."



HORYDCZAK

The United States Supreme Court Building

Recent decisions of the Supreme Court declared the NRA and the AAA unconstitutional. Both of these acts of Congress were enacted in pursuance of "the general welfare" clause of the Constitution. It is therefore evident that the Supreme Court was of the opinion that these acts of Congress exceeded the meaning of "the general welfare" clause of the Constitution.

The Limitations of Congress

What are the limitations of Congress in this respect? Can Congress enact into law everything that contributes to "the general welfare" of humanity? It is generally conceded by the majority of people that true religion is a good thing, that brotherly love and charity are great factors contributing to the general welfare. But our Constitution expressly prohibits Congress from enforcing religion by acts of Congress, or from interfering with the free exercise of religion. How can the government enforce "brotherly love" by law?

Likewise, the Constitution, under the Fifth Amendment, prohibits Congress from passing an act which will deprive any person "of life, liberty, or property, without due process of law; nor shall any private property be taken for public use without just compensation." And the Fourteenth Amendment places the same limitation upon the powers of the State legislatures.

It is very evident from this language of the Constitution that Congress cannot pass any law prescrib-

ing a man's religion for him on the plea that it is for his good and "the general welfare of the United States," nor can it pass any law taking a man's "life, liberty, or property" from him arbitrarily, "without due process of law." It can take his "life, liberty, or property" from him after he has been legally convicted of a heinous crime, or it can take his property from him under the right of eminent domain for public use, but not "without just compensation."

The Supreme Court was of the opinion that the NRA and the AAA did violence to these safeguards of human rights under the Constitution, and that "the general welfare" clause of the Constitution gave no prerogatives to Congress to override the other restrictions placed upon Congress by the Constitution. Mr. Justice Holmes, a liberal of liberals, said in the minimum-wage case: "The criterion of constitutionality is not whether we believe the law to be for the public good."

The Constitution Supreme

The question before the Court was not to determine the good the law might accomplish for a particular group of people, but whether the law was in violation of the provisions of the Constitution. It is the duty of the Court to uphold the purpose of the Constitution, not the purpose of the law. It is in this light that "the general welfare" clause of the Constitution must be interpreted by the Supreme Court. All officers of the United States and of the several States, all judges of courts, and all lawmakers from the highest to the lowest, are oath-bound to defend and support the Constitution. The Constitution is supreme, and all laws enacted by Congress are subservient to it until it is changed and amended by the people.

Chief Justice Charles Evans Hughes well said in a recent decision:

"The good sought in unconstitutional legislation is an insidious feature, because it leads citizens and legislators of good purpose to promote it without thought of the serious breach it will make in the ark of our covenant, or the harm which will come from breaking down recognized standards."

The greatest evils in legislation often spring from good intentions. Apparently innocent precedents frequently lead to the greatest abuses in legislation, resulting in the bloodless overthrow of democracies and nullification of constitutions.

Justice Not Moved by the Wind

Many resolutions have been introduced into the Seventy-fifth Congress which aim either to modify the power of the Supreme Court or to take entirely from the Supreme Court the power to declare an act of Congress unconstitutional. Quite a number of Congressmen, altogether too many, think that the judges of the Supreme Court should interpret the Constitution in harmony with public opinion. But public opinion today is not public opinion tomorrow. It shifts with the gusts of political winds, which may blow out of the north today and out of the south tomorrow, or turn into a cyclone the day following.

The judges must mete out justice to every citizen, irrespective of what his politics or his religion may be. Justice must be both blind and deaf to outside influences. If the justices of the Supreme Court should once declare that their decisions were influenced by press or pulpit, by parties or politicians, by reformers or reactionaries, and that they had bent their judgment and made it subservient to the shifting politics of the day instead of to the Constitution of the United States, every citizen would feel that his rights and liberties under the Constitution were doomed.

This danger is not imaginary, but real. More than threescore bills and resolutions are now pending in Congress to amend the Constitution, many of which threaten the powers of the Supreme Court, and aim to make a majority in Congress the absolute judge of its own acts.

No Mandate From the People

Any public official placed in office by the recent election who thinks that because he obtained his office by a majority vote he has a mandate from the people to override the decisions of the Supreme Court, is very much mistaken as to the caliber of the American people. The result of the recent election was not a mandate to any one to alter the Constitution or to override the Supreme Court by curtailing its powers over the acts of Congress. There are millions of Democrats and millions of Republicans who voted for President Roosevelt who would resent such an implication to the *n*th degree.

Not What Is Good, but What Is Right

It is not the prerogative of the Supreme Court to decide the constitutionality of a law on the basis of the good to be accomplished by the enactment of the law, but on its constitutionality as it relates to human rights vouchsafed under the Constitution. That distinction is very important. It is a distinction purely American and democratic. The American Republic was the first government to recognize that distinction. The Federal Constitution was the first legal document devised by men to protect and safeguard the inalienable rights of the individual, and to place limitations upon the powers of the highest lawmaking body in the land. Our form of government, with its constitutional checks and balances between the three branches of government during the past one hundred fifty years, has produced the greatest, most prosperous, and most liberal

nation in the world because of the triumph of these fundamental principles of government. To destroy these constitutional checks and balances and give supreme power to the legislative or executive branch of government, would mean the establishment of a dictatorship over the constitutional prerogatives of the people.

The Bane of All Past Governments

The greatest evils which have crept into the governments of the past and which finally proved their undoing, were laws enacted under the pretext of the general good and welfare of society in times of distress and emergency. Paternalism and regimentation by law during financial panics have always led to the destruction of democracies and the establishment of dictators under despotic rule, except in America, where the Supreme Court upheld the Constitution as paramount when the acts of Congress contravened it.

Whenever public officials assume prerogatives not delegated to them by the Constitution, on the pretext that they are laboring for the common good of humanity, and that they possess remedies for the ills of the people who are incapable of enjoying the fruits of liberty granted under the Constitution, it is high time that the people take alarm at the first invasion of their natural rights. Every ruler in the past who has sought despotic power has done so under the pretext that the people themselves were incapable of governing themselves to the best advantage for their own good. The purpose of the edict or decree of a dictator has always been for the pretended good of all the citizens. The despot's face has always been wreathed in smiles and his words coated with honey as he professed his deep love for the good of all the people.

Religious Despots Fawned the Public Good

The ecclesiastics who have ascended the throne of political power in the past and enforced religion by law upon the dissenters, have always justified their religious persecutions on the basis that religious laws were for the good of all the people, for the good of religion, and for the advancement of the kingdom of God on earth. The end, they said, justifies the means.

Religious intolerance always washed its bloody sword with the tears its persecutors shed for the sinners. The tyrants who confiscated the people's property by taxation, always asserted that it was for the good of the state and for the benefit of the helpless and impoverished multitudes.

Freedom of speech, of the press, of free assembly, and the propagation of all forms of religion, have been denied in the past because such freedom would permit the teaching of false doctrines which would pervert the souls of men and consign them to eternal damnation. The welfare of society and of the church could not be promoted under the grant of such liberties, they claimed, and therefore in matters of religion the people should be regimented for their good. Such reasoning put into practice has been a blight and a curse to every nation and every religion that has yielded to this kind of paternalistic sophistry.

The totalitarian doctrine advanced by the dictators of Europe—the right to rule over all things, over all men, over all sects, in both civil and religious matters—is the logical outgrowth of the doctrine that the state is the monitor of public morals and the purveyor of the temporal and spiritual needs of the people for their own good. It means a regimentation of all human activities, and the denial of individual freedom and initiative. It means a reversion to medieval methods and a retrogression of the progress of civilization. It means the loss of our precious heritage of civil and religious liberty, and the exaltation of the sovereignty of the state over the sovereignty of the people. The founding fathers of our Republic have made us freemen. Let us not make ourselves slaves.

Fail Not, America!

BY W. S. RITCHIE

FAIL not, America!
Out of earth's night thy star arose
To point refuge from Freedom's foes;
Thou wast a haven o'er the sea;
Thou wast ordained by Him to be
His prophet true.

Faint not, America,
The fair land of the exiles' goal,
The trusted guard of Freedom's soul;
Thou wast the wearied pilgrim's pride:
They journeyed long to here abide
And hope anew.

The lands across the sea
Are looking still with hope to thee.
What, then, if now thy spirit fail?
What, then, if now thy strong heart quail?
What will men do?

America, be brave!
The world, still longing, looks to thee,
Last citadel of liberty,
In this decisive solemn hour
When error flaunts its fleeting power.
O land, in this thy crisis day,
Now fall thou not dismayed away.
America, be strong!

America, be strong, be wise!
O'er thee the sentries of the skies
Unceasing watch to guide thee on,
Unfailing till the night is done.
What words can tell the loss to men
If thou to evil turn again,
And lead the world to wrong?

A Brief Biographical Sketch of Roger Williams

Part Six—The Stalwart Idealist

by CHARLES S. LONGACRE

It was fortunate for America that Roger Williams was banished from England by untoward circumstances, and from the Puritan colony by a general court action. Had he not experienced these hardships, as a result of a church and state union, he might never have seen the clear light of religious liberty in all its fullness nor remained steadfast as its defender to the end of his career. He had tasted the bitter dregs of religious persecution, and witnessed the baneful results of a denial of human rights. He saw and experienced all the evil consequence of religious legislation and also of the interference of the civil magistrate in matters of conscience in the prescription and enforcement of religious obligations.

He also lived long enough to see his own experiment of a complete separation of church and state develop into the fruition of his brightest hopes. He had the good fortune to found a new government in a wilderness previously unoccupied except by roaming Indians, from whom he purchased the land. There were no cherished traditions or legal precedents from a former administration of government handed down to handicap his new experiment. He had the privilege and unprecedented opportunity to build a republic and create and mold it in harmony with his own ideals.

A kind Providence prolonged his days, enabling him to perfect his scheme and to demonstrate that a government of the people, by the people, and for the people, under a complete separation of church and state, produced the happiest results in society that the world had yet witnessed in any human government on earth. He demonstrated that religion prospered best without state aid and without legal sanctions.

Williams was so gratified with the beneficent results of his new experiment in liberating the conscience of the individual and in safeguarding that precious heritage in constitutional law which he was handing down to his successors, that he admonished them with these burning words to preserve this priceless legacy: "Having bought the truth dear, we must not sell it cheap; not the least grain of it for the whole world."

Roger Williams, as a sound-minded and well-seasoned statesman, steadfastly protested to the closing days of his life that "the civil magistrate ought not to punish a breach of the first table of the law, comprised in the first four of the ten commandments." He never receded from his position that the compulsory Sunday-observance laws enacted by the Puritans and the Pilgrims of New England were all wrong and entirely foreign to the gospel plan.

The observance of the first four commandments of the decalogue, he held, were duties which man owed exclusively to God, and did not fall within the civil duties which man owed to the state. He was confident that God purposely wrote the ten commandments upon two separate tables of stone, in order to separate the duties and obligations that were purely religious and spiritual from those that were also secular and civil. He was positively certain that if the civil magistrate recognized this distinction between the religious aspects of the first table of the decalogue and the civil nature of the second table, and refused to enforce the first four commandments, it would lead to the total separation of church and state, and make religious persecution impossible.

A kind Providence permitted him to be banished from the Massachusetts Bay Colony, where it was impossible for him to work out his experiment, and opened an effectual door for him in Rhode Island to perfect his plans of a truly civil government. Here he realized his ideals, and saw "mankind emancipated from the thralldom of priestcraft, from the blindness of bigotry, from the cruelties of intolerance. He saw the nations walking forth in the liberty wherewith Christ had made them free."

The learned German historian, Gervinus, said of Williams that he founded a "new society in Rhode Island upon the principles of entire liberty of conscience and the uncontrolled power of the majority in secular concerns, . . . which principles have not only maintained themselves here, but have spread over the whole union, . . . and given laws to one quarter of the globe, and, dreaded for their moral influence, they stand in the background of every democratic struggle in Europe."

When Roger Williams was accused of sustaining anarchy by his liberal views, and thereby distorting civil government and hindering the progress of Christianity, he wrote his immortal essay on the question, which has been considered an imperishable classic. Among the many wise and good things, he said:

"There goes many a ship to sea, with many hundred souls on one ship, whose weal or woe is common, and is a true picture of a commonwealth, or a human combination or society. It hath fallen out sometimes that both papists and Protestants, Jews and Turks, may be embarked in one ship; upon which supposal I affirm that all the liberty of conscience that ever I pleaded for turns upon these two hinges; that none of the papists, Protestants, Jews, or Turks be forced to come to the ship's prayers or worship, nor compelled from their own particular prayers or worship if they practice any.

"I further add, that I never denied, that notwithstanding this liberty, the commander of this ship ought to command the ship's course, yea, and also command that justice, peace, and sobriety be kept and practiced both among the seamen and all the passengers. If any of the seamen refuse to perform their service, or passengers to pay their freight; if any refuse to help, in person or purse, toward the common charges or defense; if any refuse to obey the common laws and order of the ship concerning their common peace or preservation; if any shall mutiny and rise up against their commanders and officers; if any should preach or write that there ought to be no commanders or officers because all are equal in Christ, therefore, no masters or officers, no laws or orders, no corrections or punishments; I say, I never denied, but in such cases, whatever is pretended, the commander or commanders may judge, resist, compel, and punish such transgressors, according to their deserts and merits. This, if seriously and honestly minded, may, if it please the Father of lights, let in some light to such as willingly shut not their eyes."

Williams took the broad ground from which he never retreated during his whole career, that "no man can be held responsible to his fellow man for his religious belief, so long as he respects the equal rights of his fellow men." With equal fervor he maintained that "the civil magistrate could deal only with civil things." In his "Bloudy Tenent," in answer to John Cotton, the Puritan, he wrote these memorable and immortal words: "The sovereign power of all civil authority is founded in the consent of the people."

The ideals and purposes of Roger Williams were wrought out in his experiment in Rhode Island, and he demonstrated to all the world that a government based upon individual initiative and equal opportunity and the free exercise of the conscience in religious matters, was far superior to any government that regimented and prescribed all things to all men. He demonstrated beyond the shadow of a doubt that the happiest, most peaceful and prosperous people are those who live under a government where the people are ruled by the least legislation necessary. Many believed in religious liberty, but only for themselves. Some believed in the freedom of conscience for others, but the high honor was reserved for Roger Williams to establish the first government upon the consent of the governed, where all men of every religious persuasion and of no religious profession, and the inalienable rights of the individual, should enjoy the equal protection of the law. Truly did the great American historian, George Bancroft, say of him:

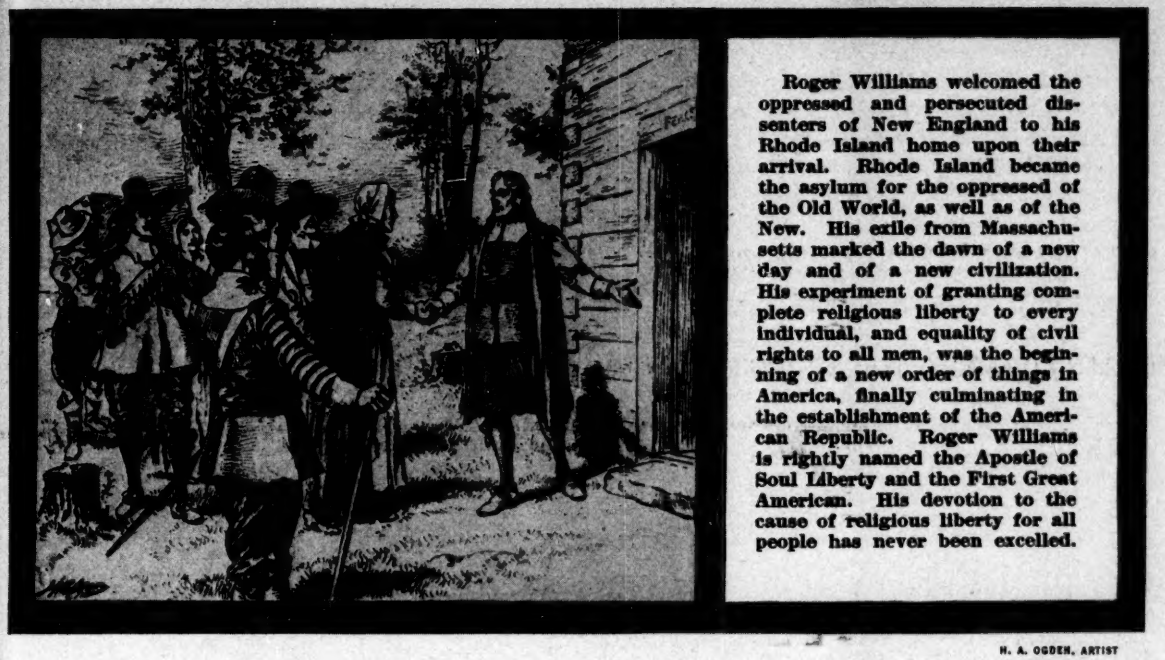
"He was the first person in modern Christendom to assert in its plenitude the doctrine of the liberty of conscience, the equality of opinions before the law. . . . Williams would permit persecution of no opinion, no religion, leaving heresy unharmed by law, and orthodoxy unprotected by the terrors of penal statutes. . . .

"We praise the man who first analyzed the air, or resolved water into its elements, or drew the lightning from the clouds, even though the discoveries may have been as much the fruits of time as of genius. A moral principle has a much wider and nearer influence on human happiness; nor can any discovery of truth be of more direct benefit of society, than that which establishes a perpetual religious peace, and spreads tranquillity through every community and every bosom.

"If Copernicus is held in perpetual reverence, because, on his deathbed, he published to the world that the sun is the center of our system; if the name of Kepler is preserved in the annals of human excellence for his sagacity in detecting the laws of the planetary motion; if the genius of Newton has been almost adored for dissecting a ray of light and weighing heavenly bodies in a balance, let there be for the name Roger Williams at least some humble place among those who have advanced moral science and made themselves the benefactors of mankind." —*Bancroft, p. 255, ed. 1888.*

If a man's ideals and work survive him and continue to bring forth a harvest of precious fruit in blessings upon humanity, he is a truly great man. The best way to judge this man is by comparison between the Puritan scheme of government and the Rhode Island experiment. The Puritans in Massachusetts and Connecticut established their government upon the theory: "Subjection in the Lord ought to be yielded to the magistrates in all lawful things commanded by them for conscience' sake;" and "matters of faith and worship, . . . or such erroneous opinions or practices, as either in their own nature, or in the manner of publishing and maintaining them, are destructive to the external peace and order which Christ has established in the church, . . . may be lawfully called to account, and proceeded against by the censures of the church and by *the power of the civil magistrate.*" The Puritans, in prescribing the duties of the civil magistrate, laid down the following rule:

"It is his duty to take order, that unity and peace be preserved in the church, that the truth of God be kept pure and entire, that all blasphemies and heresies be suppressed, all corruptions and abuses in worship and discipline be prevented or reformed, and all the ordinances



Roger Williams welcomed the oppressed and persecuted dissenters of New England to his Rhode Island home upon their arrival. Rhode Island became the asylum for the oppressed of the Old World, as well as of the New. His exile from Massachusetts marked the dawn of a new day and of a new civilization. His experiment of granting complete religious liberty to every individual, and equality of civil rights to all men, was the beginning of a new order of things in America, finally culminating in the establishment of the American Republic. Roger Williams is rightly named the Apostle of Soul Liberty and the First Great American. His devotion to the cause of religious liberty for all people has never been excelled.

H. A. OGDEN, ARTIST

of God duly settled, administered, and observed."—*Westminster Confession, 1648, Chap. XXIII.*

On this hypothesis of government, the Puritans proceeded to unite the church and the state and to enforce every religious obligation, every divine ordinance, and religious custom and observance under the duress of civil magistrate and the penalties of the criminal codes. Everybody was compelled to support the Established Church by the payment of his tithes, whether he was a member of the church or not. All parents, whether members of the Established Church or not, had to have their infants officially sprinkled, or suffer punishment at the whipping post or by a fine. Everybody had to attend "divine services on Sunday," whether a professor of religion or not, or pay a fine of ten shillings. All labor and secular business of every kind, except works of necessity and charity, were prohibited on Sunday, under the penalty of the whipping post or fines and imprisonment. One of the Sunday laws read as follows:

"Whosoever shall profane the Lord's day, or any part of it, either by sinful servile work, or by unlawful sport, recreation, or otherwise, whether willfully, or in a careless neglect, shall be duly punished by fine, imprisonment, or corporally. . . . But if the court, upon examination, . . . find that the sin was proudly, presumptuously, and with a high hand committed against the known command and authority of the blessed God, such a person therein despising and reproaching the Lord, shall be put to death."

Both Massachusetts and Connecticut, under the Puritan regime, enacted more than two hundred fifty separate and distinct compulsory Sunday observance regulations, many of which are still existent upon the statute books of the States which comprised the thirteen original colonies.

Roger Williams would have none of these religious regulations upon the civil statute books of Rhode Island. That State never had a compulsory Sunday-observance law upon its statute books, nor any religious obligation enforced under the penal codes, while Roger Williams had a controlling voice in State affairs. Nor did he believe the church or any of its schools in which religious education was imparted, should receive financial aid from the general tax fund. He was just as much opposed to subsidizing the religious teacher as he was to paying the clergy from the general tax fund of all the people. His reasons for opposing a State subsidy to religious institutions were sound. It is unjust to tax an unbeliever to support the teaching of religion. State subsidy for the support of religion means State control of religion. To the Puritan clergy this new doctrine was "heresy" and to the Puritan magistrate it was "sedition."

When Roger Williams struck a blow at the authority of the civil officers to interfere with church matters and to punish offenses against God and religion, he was condemned and "expelled" by the General Court for "new and dangerous opinions against the authority of the magistrates." He told them that he would "never refuse to obey them in purely civil matters." His persecutors informed him that they were not punishing him "for his religion," but for "sedition," and "disturbance of the public peace," and "jeopardizing the public good."

This was the same pretext upon which the pagan

rulers of Rome burned the early Christians at the stake. It was this same kind of sophistry that the Jewish ruler invoked when he justified the crucifixion of Christ, saying "that it was expedient that one man should die for the people." Under a religion established by law, irrespective of its kind, whether pagan, Jewish, or Christian, religious persecution is inevitable and religious liberty impossible. As the Jewish hierarchy thought they would put an end to Christ by crucifying Him, so the Puritan hierarchy thought they would put an end to the alleged "dangerous and damnable heresies" taught by Roger Williams by sending him into exile. The Puritans banished him to the wilderness to perish, but Providence watched over him, protected and nurtured him, gave him the courage of a hero and the spirit of a martyr. God had brought him into the world for such time and such a mission as this. Persecuted in the Old World from his youth and banished in the New, Providence led him forth to a new and goodly land to found an asylum for the oppressed children of God, where the wicked should cease from troubling them.

"Careless seems the great Avenger; history's pages but record
One death grapple in the darkness 'twixt old systems and the Word;
Truth forever on the scaffold, Wrong forever on the throne,—
Yet that scaffold sways the future, and, behind the dim unknown,
Standeth God within the shadow, keeping watch above His own."

Refusing to Salute the Flag

An Important Court Decision

by JUDGE PETER J. SHIELDS

[At the request of the editors of the LIBERTY magazine, Judge Peter J. Shields, of the superior court of Sacramento, California, furnished to this magazine a copy of his decision in the case of Gabrielli, etc., vs. Knickerbocker et al. When it was pointed out to him that certain other judges throughout the country had given contrary opinions in similar cases, Judge Shields was asked if he would care to enlarge upon his opinion. He promptly replied. His comments are here offered following the decision.

Judge Shields' reasoning is accurate, his conclusions are unanswerable. Liberty-loving Americans may thank Heaven that the fathers of this nation set up safeguards for the preservation of the liberties which they bought at such a cost, and that there are upon the bench men who appreciate and approve these things—men who, in spite of popular clamor, interpret law in harmony with the spirit as well as the letter of our constitutional guaranties. Not infrequently a judge, by adhering strictly to such guaranties, brings upon himself the wrath of his community. Sometimes we feel that these men must sense a terrible loneliness. Again we say, thank God we have such men, and may they long live!—EDITOR.]

THE PETITIONER herein, a young girl who was attending the Fremont school in this city, refused to salute the flag at the daily flag exercises in the schoolroom. For this refusal she was later expelled from the school, and denied all right of attendance upon the public schools within the jurisdiction of the Sacramento board of education. It is to be restored to the school that she has brought this proceeding.

"In defense of her conduct and as a reason for her refusal to salute the flag, the child states that to do so would be contrary to the convictions of her conscience and the tenets of her religion, which she sets forth with particularity. In this relation the Constitution of the United States, in the first section of what is known as the Bill of Rights, provides that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.' This provision does not apply here. I cite it only to show the sanctity with which our country clothes and invests the principle of religious freedom. But the constitution of California, which directly applies, provides: 'The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this State.'

"This right which we in this country think is a natural right, and which has been so solemnly announced and safeguarded, is subject to this well-defined qualification, that laws may be passed essential to the public welfare, and that no religious

belief can be asserted against the things necessary to the maintenance of the government or the preservation of the public health, safety, or morals. Saluting the flag does not come within any of these exceptions. It is a very admirable exercise, to which our people have long been devoted. To refuse to salute the flag arouses a general protest because of its implication of disloyalty to the government. But this child protests her devotion to her country and her loyalty to all the things of which the flag is a symbol. Her asserted religion is one adopted by few people in this country.

"To great numbers of persons it appears to be unreasonable, not to say offensive. But we are not to be the judges of the reasonableness of another's religious belief nor the merits of his conscientious convictions. The Constitution says that we may exercise our religious profession 'without discrimination or preference.' Under this principle, we of America have known a measure of freedom unknown to any other people. A happy experience has taught us to suffer the irritation of a conflicting religious practice, no matter how unreasonable we may deem it, in order that we may preserve the principle, which in turn protects us. There is no law requiring this child to salute the flag; it is not required by any course of study prescribed by the State board of education; it is not required in all of the schools in the district.

"In the absence of law, the practice might have become so traditional, and through general acquiescence have come to so express the fixed educational policy of the State that it would have a support equivalent to law. But that is not the case here. In California the private schools do not require this salute as a regular discipline. Yet we encourage these schools and accredit their students according to their scholarship and without regard to the absence from their experience of this flag discipline. . . .

"Were it not that this child's religion is objectionable to so many people and conflicts with a practice to which the nation generally is so devoted, we would, in obedience to the American ideal, instantly concede her the right she here asserts. But our devotion to the principle of religious liberty should stand this test. It is in such cases that our own sincerity is tried."

Judge Shields' Comments

"I am astonished that any court should lend any sanction to the punishment of these children because of their religious belief. In the case before me, and I presume in all cases elsewhere, the child and her parents protested their love of their country and their devotion to all of the things of which the flag is the symbol. They insist that they are patriotic and inoffensive citizens, and that the sole and only reason for their refusal to salute our flag is that they believe that to do so would be to disobey God's command. The constitution of our State, and I presume of all of the States, as well as of the United States, provides as a part of its bill of rights that the free exercise and practice of religion shall be forever guaranteed to the citizen.

"It has taken all of the ages to lead up to this priceless privilege. It has taken centuries of wars and persecutions and martyrdoms to lead up to it. The long years have waited upon America to give us this thing as one of her choicest gifts to her favored children. Its practice has given us a peace and harmony which should lead us to value religious freedom almost above all other things. It seems unreasonable, to most of us it is offensive, that any one should refuse to salute a flag which is so beautiful in the richness of its meaning. But religious freedom, as our Constitution provides, protects all religions 'without distinction or preference.' In America no man is set in judgment upon the truth or reasonableness of another man's religion.

"If the fathers of our country who gave us this priceless principle could hear today that after nearly two centuries of happiness in its operation, some of our public officials were attempting to evade it, to circumscribe, and to deny it, they would not credit their senses. The school boards and officials who are today attempting to punish these children because of their religion, are so influenced by their patriotic emotion, with which most of us sympathize, that they do not realize what they are doing. Their actions are purely those of religious persecution; they accomplish no other purpose. There is nothing in the slightest degree remedial in excluding these children from our schools.

"In *every* case in which the plea of religious faith has been denied as an excuse or defense, the person relying upon it had been doing something detrimental to society, or impairing or interfering with essential processes of government, and in *all* of such cases the religious freedom was denied only through the prevention of this immoral or unlawful act or practice.

"In all the history of American jurisprudence there has never been a case where religious freedom has been denied, where the act involved did not of itself consist of some offense against or denial of some essential public duty. Nor has it ever been denied in any case where the act of denial did not of itself correct or repair the wrong complained of. Here neither of these conditions exists. For example, a nudist who undertakes to roam the streets in his nakedness will not be permitted to do it, even though he may claim this to be his religion. He is offending against public morals, and his punishment

H. A. ROBERTS

An Education Is the Birthright of Every American Boy and Girl

is not even suggested as directed against his religion, but to prevent a crime against society.

"If a man says that it is his religion to refuse to pay tribute to any one but God, and that therefore he will not pay his taxes, his religious freedom will be denied, only to the extent of collecting his taxes through the sale of his property. No attack is made upon his religion, only indirectly by the enforcement of a necessary governmental policy.

"I could continue these illustrations indefinitely. Belief in polygamy, for example, was held not to be a defense for the act of living openly with more than one wife, contrary to a law which was deemed necessary to preserve sound public morals. But in this case the denial of the Mormons' religion went no farther than to stop this antisocial practice.

"Do I make it clear that the free exercise of religion has never been curtailed, restricted, or prohibited except to prevent some affirmative act which directly operated against public policy, and which the act of denial operated directly to correct or prevent? But in these cases the children have done nothing, they have taught no resistance, they have omitted no act of duty to the State. But because they do not believe in offering a salute and believe that by saluting, as requested, they would disobey God's command, they are punished, and the punishment is purely futile and accomplishes nothing but to punish. It does not result in effecting the salute. It does not, as in the cases above illustrated, stop a vicious practice or enforce a political duty. It results in punishment because of a religious belief.

"*If we deem it socially essential that the flag* should be saluted, the exclusion of the child from school does not even tend to produce that result. In the first place, by this violation of one of the *chief things which should make us salute the flag, the board of education has given the child a real* grievance against it.

"One of the chief beauties of the flag is that it stands for religious freedom. When we make it an agency for religious persecution, we rob it of one of *the qualities which should command such a salute.* On the other hand, if these chidren are left in the school, they are given the only chance which probably will ever be afforded them for learning of the multitude of good things of which the flag is a symbol, and which might make them so love it that they would salute it with sincerity, which after all is the only kind of flag salute in which we are interested.

"The consequences of the expulsion of these children is far-reaching. In California it is a punishable offense to refuse to send your child to school. After this child had been expelled, the father could have been arrested because of her nonattendance. The fact of her expulsion would be no defense for him, because it was for a cause which, through his instruction, he had caused to exist. For how long would he be imprisoned? Possibly for the whole period of the child's school life. And here we do not allow children to grow up without education. In a case where the parent was unable to pay for the education of the child in a private school, the child would be taken by the juvenile court authorities and would be sent to a correctional institution. Even there, if her strength held out, she would refuse to make the salute which God, as she believed, had forbidden her. The net result of the policy of the board of education would be expulsion, and expulsion is, and will be, no salute, the expensive support of the child by the State at a public institution, and the imprisonment of a little child because of her religion. The only possible 'successful' result of the board's action would be that the strength of the child might fail, and that she would yield a salute which her conscience had forbidden. And all of this in America and in the twentieth century. How simple it would be to avoid all this medieval persecution, and to permit the child to remain out of the room while the salute is being offered, or to stand mute with her companions while they offered their pledge.

"Can you not make the well-meaning officials involved see that the flag is not honored by a salute in which a child is made to violate her religious belief and to offend against her God, but rather by so doing they are disobeying the Constitution and dishonoring the memory of our fathers?"

Who Shall Dictate

The Policies of Our Government?

by JOHN F. HUENERGARDT

IN THESE DAYS much is being said and written about our own American form of government and the danger of dictators and dictatorships. This theme has become the subject of wide discussion. Discussions of this nature should be encouraged. It is high time that every liberty-loving American become thoroughly informed on the most vital questions of government. Close observation reveals the fact that the average American mind is almost altogether in the dark regarding the fundamentals of government.

Few seem to know, after all, that governments are dictated either by firmly established laws or by men who dictate their own laws. Viewing the matter in this light, this question of dictatorship reduces itself to this simple form: Do we want a government of law, or a government of men to dictate our policies? Or, more specifically, do we want the Constitution of the United States to dictate policies to our government, or are we willing to accept in place of this a single individual or a small group of men, as is the case in troubled Europe today? This fundamental difference in the maintenance of government of law, rather than a government of men, was very clearly brought out by Senator Borah of Idaho, in a recent radio talk.

Dictators generally come to power by their own choice. So it has been in ages past, and so it is even in our present day. Certain circumstances create them, and they in turn create circumstances, often not very beneficial to their nation, but pleasing to their own ideas and whims, as the case may be. Some of them appear to be endowed with a supermind. They are gifted with great talents. They are outstanding in their courage, love, and devotion to their fellow men and to their country. They seem to succeed in winning over even their enemies. They continue to hold their power by their strong will, and to perform their duties faithfully, sincerely, unselfishly, and often they succeed in going down in history as great heroes and benefactors of their nation. Still others become dictators by their arbitrary manner and by despotic power, forcing themselves upon their fellow men. Their way, in and out, is often the way of tyranny and bloodshed.

Our American nation, because of its wise founders, steered completely free from all these experiences. Those builders of our nation, with their knowledge of government run by an established constitutional law rather than by men, saved our nation from all such adventurous experiments. They were far from willing to trust the destiny of our nation to an individual or a group of men, however ideal their intentions, because they were aware of the weakness and frailty of human nature, and of the fact that man is subject to passion, political zeal, and selfish schemes, and that he is at any time liable to be carried beyond reason or justice. They decided, on the basis of historical experiences, to what kind of dictatorship this nation should entrust its destiny.

Their knowledge of government made them extremely cautious. Washington himself flatly refused to be made a king. Madison, who had no reason whatever to question the character, ability, integrity, purpose, or patriotism of his contemporaries, was firmly convinced that the institution of a supreme court would prove a strong bulwark against every assumption of power by those in office.

These men were profoundly convinced that liberty and the advancement of human happiness could be entrusted only to a government of law, and not to a government of men.

Those men who framed our Constitution embodied therein those fundamental principles of government in which they had the most faith and confidence. Their convictions had been tried and tested in the crucible of the experience of past ages. These great principles were drafted into this immortal document. After it was formulated, it was accepted by vote of the American people, and it has for more than one hundred fifty years dictated the policies of this government and guided our ship of state.

Those great and wise framers of our Constitution were some of the foremost citizens of our American colonies. They were the descendants of the bravest and truest subjects of countries and governments of the Old World. Some of these ancestors of our patriots were not satisfied with the policies and methods of their respective countries, so they sought

other shores where they could be free to establish a system of government to suit their purposes and ideals. After establishing independence, they framed our Constitution, organized our government, and were promptly backed by the whole nation, which rallied around the flag and by vote decided to accept the Constitution as their dictator.

This experience is unique in the history of the world, and can be looked upon as a consummation of favorable circumstances. It almost seems as if this nation came about by a fortunate accident, but it is true that divine Providence intended to give blundering humanity another new and complete start in government. It is not mere phraseology to say that the founders of our government did create a new order of things. Here was a vast territory, offering the greatest possibilities; a body of wise and brave men, disinterested patriots, who stood forth as firm advocates of great principles, led by ripe experiences gleaned from the history of past millenniums, and urged by the repeated injuries and usurpations of the king of England, content to trust their characters and their conduct to posterity. We cherish their memory as of noble benefactors of mankind. They went to their graves without the soothing consolation that their services were duly appreciated. We behold the structure of the Constitution, and admire their wisdom and foresight, their profound love of liberty, their deep sense of the value of political responsibility, and their anxious care to give perpetuity to the democratic institutions of our country.

Today our ship of state is still sailing these same treacherous seas, and especially in our own days is it threatened by severe storms, some of them already foreseen by Washington and referred to in his Farewell Address in 1796.

But all these dangers can easily be avoided or overcome if this nation will follow the course mapped out for it by the framers of our Constitution, who, although they lived even before the horse-and-buggy age, in the matter of politics, revealed a foresight equal to, if not surpassing, that of our modern statesmen.

But let us survey more closely the actual structure of our Constitution. The motives leading to its framing are the following: To form a more perfect union, to establish justice, to ensure domestic tranquillity, to provide for common defense, to promote the general welfare, to secure the blessings of liberty for ourselves and our posterity. Then follow the "shall-be" and the "shall-not-be" sections of the Constitution, dictating the policy to be followed by our government. In its First Amendment our Congress is told to make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech, of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. And so it continues in eighteen different paragraphs or sections to state what is to be or not to be the policy of our government.

In summing up, I could not find more fitting words than those of George Washington, which he used in his Farewell Address to this nation:

"In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish; that they will control the usual current of the passions, or prevent our nation from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism, this hope will be a full recompense for the solicitude for your welfare by which they have been dictated."

Constitutional Religious Liberty in Russia

THE SOVIET GOVERNMENT of Russia has drafted a new constitution for the U.S.S.R. by a special Congress of Soviets as a "Constituent Assembly." It adopted the new constitution of the Soviet Union by a unanimous vote, in the first half of December, 1936. This new constitution guarantees the secret ballot for all political elections, free speech, free press, freedom of assembly, equal political rights for all citizens, and freedom of religious worship to all persons of every sect and to antireligionists. A total separation of church and state is guaranteed.

At first this new constitution was hailed by the people of Russia as a retreat from the old tyrannical rule of Communism and a concession to a liberal democratic form of government. Those who had been greatly restricted and persecuted in the exercise of religion were especially jubilant when they read Article 124:

"In order to ensure to citizens freedom of conscience, the church in the U.S.S.R. is separated from the state, and the school from the church. Freedom of religious worship and freedom of antireligious propaganda are recognized for all citizens."

But the people of Russia were soon disillusioned over these new promised liberties in both civil and religious matters. When inquiry was made as to the meaning and application of the fundamental principles set forth in the new constitution, an authoritative Soviet spokesman blasted all their bright

hopes and prospects of the new charter of civil and religious freedom by explaining that all these new forms of liberty are to be enjoyed only "within the framework of the Communist program." None of the laws enacted previously which restricted the liberties of the people have been repealed. The law and program devised in 1929, with the declared purpose of rooting out religion in Russia, continue in force. So the new legislative leaf turned over is simply a page out of the old Soviet program, and reveals no essential changes.

Under the present Soviet program, churches are merely permitted to exist, and this under the most rigorous and galling conditions. If they attempt to propagate their religious beliefs, the churches are notified to cease their activities or they may be closed by the government. Some observers think that instead of granting greater religious freedom to the various Christian sects, it is more likely that Jaroslavsky's threat a few years ago to close all churches in Russia by 1937 may be carried into effect. They believe that the Stalin government is desirous of making a favorable impression upon the rest of the world by this constitutional gesture, and has no serious intention of granting full and complete religious liberty to its own citizens.

The sending of emissaries abroad by the Soviet Union, like Hecker and Anna Louise Strong, to persuade England and America that Communism is "merely a higher form of Christianity," and that the system of "Red Parliaments" is a higher form of "true Democracies," clearly indicates that the Soviets are deliberately seeking to gain English and American public approval by a misrepresentation of the actual situation. A glance at what happened in Russia after constitutional religious liberty was proclaimed in 1933, which brought American recognition of the Soviet government, leads many to believe that this constitutional gesture for greater freedom is intended for foreign consumption, but in reality there will be no significant alteration in the Soviet attitude toward religion. The Soviet government, after it proclaimed religious freedom to all sects in 1933, continued to outlaw priests by the thousand. Thousands of Christians were exiled or starved to death for freely exercising their religious rights. Thousands of churches were closed or demolished, and millions of Russian citizens were deprived of all possibility of formal religious expression.

Let us hope that the Soviet government is not playing fast and loose with religion this time, merely to gain public favor abroad, but that it actually means to enforce constitutional government at home, and put an end to religious persecution. If the Soviet government still continues to ignore these constitutional guaranties of civil and religious freedom to its own citizens, the nations of the world can come to no other conclusion than that Stalin and his associates are courting foreign favor by deceptive means and fair promises, while at the same time they are standing firm in the classic effort to crush religion at home. C. S. L.

Financial Alliance Between Church and State

On January 10 a bill was introduced into the Connecticut Legislature at the request of the Catholic hierarchy, which makes provision that hereafter the parochial schools shall share annually in the public school funds in that State.

During the last sessions of the Ohio, New York, and Massachusetts Legislatures, similar attempts were made to obtain millions of dollars of the public tax funds for the support of parochial schools. Similar raids upon the State treasuries of a different kind are now being made in Illinois, Montana, and a few other States where there are strong Catholic constituencies, to obtain free textbooks and free transportation for parochial-school children. Year before last the Catholic Church demanded $5,000,000 of the tax funds for the church schools of Ohio, but their request was refused by an adverse decision of the State legislature.

All the States where these parochial-school bills are pending have constitutional inhibitions which expressly prohibit any public funds from being appropriated for sectarian educational purposes.

The Connecticut constitution says: "No law shall ever be made authorizing said [tax] fund to be diverted to any other use than the encouragement and support of public and common schools."

The New York constitution says: "Neither the State nor any subdivision thereof shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination and inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught."

The Montana constitution says on public education: "Neither the Legislative Assembly, nor any county, city, town, or school district, or other public corporations, shall ever make, directly or indirectly, any appropriation, or pay from any public fund or moneys whatever, or make any grant of lands or other property in aid of any church, or of any sectarian purpose, or to aid in the support of any school, academy, seminary, college, university,

or other literary, scientific institution, controlled in whole or in part by any church, sect, or denomination whatever."

In the face of these plain constitutional prohibitions, how can the Catholic Church justify its unconstitutional demands for a share of the tax funds of the State for the support of its parochial schools? Is the constitution no barrier to them?

Thank God, not all Catholics are in favor of the demands the Catholic hierarchy is making of the State. Some Catholics in the State legislature of Ohio talked and voted against the parochial-school bill. Hon. E. L. O'Connor, former attorney general of the State of Iowa, a stanch Catholic, has written an article for this number of the LIBERTY magazine against this very attempt of the Catholic Church to secure State aid for her schools. We trust his earnest exhortation and warning to Catholics may not go unheeded.

We are not discriminating against any church, irrespective of what its faith may be. Any and every church has a right to advocate any doctrine, no matter how unorthodox it may appear to us. But when a church attempts to make a raid upon the public tax funds in violation of every constitutional inhibition, as loyal citizens we are bound to speak against it. Such a financial alliance is not for the best interest of either the church or the state. The greatest sufferer will be the church that receives the government subsidy. He who does not know this, is blind to all past and present history. Government subsidy means government control.

Why are these un-American and unconstitutional demands made by the Catholics upon the State treasuries for the support of their parochial schools? Why do they make these demands in those States where they have their largest church membership and strongest representation in the State legislatures? These are questions which are perplexing many American citizens who believe in a total separation of church and state, and they would like them answered. Why, when State subsidy means State control?

It is high time American citizens take notice of these un-American measures, and smite such an unholy alliance in its very incipiency before legal precedents are established. C. S. L.

Hidden Dangers to Both Catholics and Protestants

(*Continued from page 9*)

nearly in accord with the fundamental principles of American religious liberty. The practice of permitting nuns to teach in the public schools in communities where the majority of the school patrons are Catholics, can result only in reprisals against Catholic lay teachers in other districts largely populated by Protestants.

If you will pardon the personal reference, such a reprisal was directed at the writer while he was engaged as superintendent of schools in the Independent School District of Burt, Iowa. Twenty-three patrons of this Independent School District signed a petition for my removal because I was a Catholic, and presented the same to the school board. Every member of the school board was a Mason, the president being a Shriner. No complaint was made as to my ability as a teacher or as the director of the schools. The sole ground relied upon by the petitioners was my religion.

Although the community was overwhelmingly Protestant, still the school board refused to grant the request of the petitioners, and renewed my contract for two years thereafter. The argument that was made in support of this petition by the intelligent members of the school corporation that were objecting to my position, was that in Catholic communities no Protestants were permitted to teach, and over and above that, Catholic nuns were employed to teach in the public schools. The situation in the school district of Burt might have developed into major proportions had it not been for the broad-minded and intelligent members of the school board. What happened in the Independent School District of Burt perhaps has happened in thousands of other communities.

Basing my opinion upon the historical development of America, wherein emphasis has been placed upon religious liberty and the separation of church and state, and also upon the decisions of the courts as above outlined, I conscientiously feel that the denial of the right of a Sister to wear her religious garb or any other member of a sectarian order to wear her particular religious insignia while engaged in teaching in the public schools, can properly be sustained upon the fundamental principle of our American system of government. If one Sister were permitted to teach in any public school, then the entire teaching force could be selected on the same basis. The principal or superintendent could be a Roman Catholic priest, or an Episcopalian minister, or a high church ecclesiastic of any other religious order. It is apparent what the consequences of such a practice would be. Religious consciousness, with all its attendant prejudices, retaliations, and bitter contests, would be revived. The history of the world would again be turned back to that inglorious period prevailing especially during the years 1517 to 1648 A.D.

Attempts by any religious group to gain advantage in the public schools for the purpose of making converts or to require the public generally to con-

tribute to the support of their own particular religion, would constitute efforts to abolish the very cornerstone of religious liberty upon which America was originally founded. No longer would the church itself be free if the handing out of funds for its support were once placed in the greedy paws of professional politicians. Private or parochial schools would lose their power to dictate their own courses of study, religious or otherwise. Parochial schools should beware of this tempting "gold brick." While its surface might glisten with the most sparkling luster, yet its "innards" might contain sufficient dynamite to blow out of existence all forms of religious instruction or worship. Catholic and Protestant children, alike, might be forced to march with military precision, saluting false gods molded from the most sodden clay.

If our great nation, founded upon the inherent right of its citizens to liberty, justice, and freedom, is to survive the onslaughts of pagan greed and selfishness, it will constantly need the ennobling influence of Christian idealism. Therefore, religion must be kept free and inviolate from the encroachment of tyrannical domination by temporal authorities.

Catholicism should not surrender its "birthright for a mess of pottage." It should not supply the entering wedges which may reopen the vaults of intolerance and persecution long since partially sealed by the wanton bloodshed and massacres of our forebears extending back for almost eighteen hundred years. The release of such incorrigible forces may prove far more disastrous to the world than the opening of the mythical box of Pandora. Religious persecution has had for its victims the followers of Jesus of Nazareth, the early Christians up to the reign of the Roman emperor, Constantine, the Albigensians and Waldensians, the Huguenots, the Catholics, the Nonconformists, the Puritans, the Anabaptists under Roger Williams and Anne Hutchinson, the Quakers, and the so-called "Old Witches" during that ignoble period of our colonial history generally referred to as the Salem Witchcraft.

Coming down later in American history, we have seen human passions aroused to fever heat by the un-American activities of the Know-Nothings, the American Protective Association, better known as the A.P.A.'s, and the most recent organizations, the Ku-Klux Klan and the Black Legion. Even though our present motives in championing the cause of the nuns to teach in the public schools and demanding State aid for the support of parochial schools, be the most pure and sincere, let us pause to consider the hidden dangers that lie ahead on this obsolete but highly dangerous pathway. We should be willing to bear our religious cross of freedom with greater animation, even though our personal sacrifices may be more onerous, than to take the backward steps which the world's history has disclosed to be fraught with evils. We should go forward as enthusiastic champions of the complete separation of church and state, because by so doing we shall have the triumphant satisfaction of knowing that our God-given right to worship the Infinite Ruler of mankind will be better safeguarded. Under no circumstances should we, as either Catholics or Protestants, insist upon sowing the seeds which might reap for us a whirlwind of religious bigotry, intolerance, and persecution.

News and Comment

THE citizens of Waynesboro, Virginia, on January 5 voted in favor of Sunday movies. The vote nullified an ordinance passed by the town council, which prohibited shows on Sunday. The people, through the franchise, are gradually wiping the religious laws off the civil statute books.

A HUSTINGS court jury at Petersburg, Virginia, acquitted Samuel D. Northington, theater manager, of a charge of violating the Sunday-closing law by operating on Sunday. The verdict rendered by the court, after the acquittal, stated that moving pictures in a "well-ordered theater are morally fit and proper," and conducive to the well-being of the public within the meaning of the law.

THOMAS WATERS, a grocer of Spokane, Washington, was arrested, tried, convicted, and fined for selling pork chops, string beans, tea, and coffee on Sunday to Martin Graf, a member of the meat cutters' union, who acted as a stool pigeon in the prosecution. It was a question of retaliation and spite between a union and a nonunion member. That is all a Sunday law is good for—to allow folks to vent their spite on others. The case is being appealed to the superior court.

VIRGINIANS, who have boasted for a century and a half that their State was the first to establish religious freedom, are still pestered with the Sunday blue laws, and they have decided to test the validity of these laws. Two proprietors of Sunday movie shows in Alexandria, after being fined, decided to carry the case to the supreme court of Virginia. We hope the supreme court will decide that the Act of Religious Freedom established in 1786, through the instrumentality of Thomas Jefferson, and which is now a part of the State constitution, is paramount to a State statute.

Sparks From the Editor's Anvil

An error repeated a thousand times never justifies the making of the first error.

He who does not value his liberty beyond monetary gain does not deserve liberty.

Christ's chief concern was to get souls right with God instead of right with the church.

Those who live only for the pleasure of their senses, will sell their liberty for a mess of pottage.

He is a truckling slave who fears to stem the tide of popular ill will when the multitude goes astray.

The chief task of the church is not to proclaim a program of social reconstruction, but to evangelize the unsaved.

A politician lives and works for reelection, but a statesman seeks to advance the good of his country for the future.

Many Christians do not know Christ as an abiding Guest, but have only a bowing, formal acquaintance with Him.

Sin-stained man requires an eternity to grow into the fullness of God and to comprehend His matchless love for sinners.

There is nothing more disappointing in life than a well-meaning person whose zeal lacks the balance of good judgment.

It is easier for a popular preacher to denounce social ills than to bring Christ into the inner daily life of the people.

Most preachers prefer to utter impotent diatribes against the slums than to offer Christ to the slum owner and slum inmates.

There are some folks who have a keen sense of hearing the sound of the dollar, but are stone deaf to the voice of principle.

When the liberty of one man uses force to destroy the liberty of another, true liberty is betrayed, and must be defended by freemen.

The teaching of internal purity and discipline within the church is preferable to external regulations and magisterial penalties.

All human abstractions of pure thought and reason must bow to the absolute truth that God is the explanation of the universe.

The greatest menace jeopardizing the future of democracies is a servile mass mentality which genuflects to a national hero as to a god.

A minister of God has no business to discuss great national questions unless they threaten the liberties and welfare of the cause of God.

A converted legislator is of infinitely more value to the kingdom of God than thousands of religious laws enacted by Congress to aid the church.

There is nothing undiscovered and unknown to God; therefore He needs no help from finite man to meet an emergency, as there is no crisis with God.

It is more popular for the churches to send petitions to the halls of Congress to correct social ills than to the throne of God for power to save souls.

The breath of life for a nation that gives its government vitality, is not the multitude of its regulatory acts, but the bill of human rights it places beyond the domain of legislation.

When democracies are overthrown, the sovereignty of the people is destined to be succeeded by the sovereignty of dictators and the rule of tyranny in all things, both temporal and spiritual.

The body may be in the bondage of chains, but the mind and the soul are still left free to soar, as Bunyan's did in Bedford jail when he carried Christian in glorious triumph to the Celestial City.

Liberty is a precious jewel that cannot be bought like a diamond and safely stored in a robberproof vault and preserved for ages; its price is eternal vigilance and its security the vault of the human heart.

Liberty's New Size and Format Well Received

Never before have we received so many letters of appreciation and commendation from prominent people high in the walks of life as we are receiving concerning the new dress and the improved contents of the Liberty magazine. The demand for extra copies was so great that we were unable to fill all the orders. We are increasing our printing order for the second quarter, as we know there will be a great demand for this number.

The Liberty magazine has a vital message which appeals to American citizens, and to the citizens of all nations who believe in civil and religious liberty and the natural rights of all persons as divinely ordained. Its objective is to defend the inalienable rights of all men, irrespective of race, color, religion, politics, or nationality. It stands for the equality of all citizens before the law, and the complete separation of church and state. It intends to fulfill its high mission without fear and without courting favor.

Compulsory Sunday Observance Pending Before Congress

TWO COMPULSORY SUNDAY-OBSERVANCE BILLS were introduced into Congress, one by Senator Copeland, of New York, on February 1, and the other by Congressman Quinn, of Pittsburgh, Pennsylvania, on February 19. Both bills, one in the Senate and one in the House, read exactly alike, and have the following obnoxious provisions:

"Sec. 14 (*a*) It shall be unlawful . . .

"(6) To maintain or operate any establishment in the District of Columbia wherein the occupation or trade of barbering is conducted on Sunday, except that the foregoing provisions of this paragraph shall not apply to persons who actually refrain from the practice of such occupation or trade on Saturday solely because of religious beliefs. . . .

"(*b*) Any person violating any of the provisions of this Act shall upon conviction be fined not less than $25 nor more than $200, or imprisonment for not more than ninety days, or both."

The above provision puts a religious test upon barbers. No barber under this act is allowed to engage in the trade or occupation of barbering on Sunday unless he first "refrains" from the practice of barbering "on Saturday solely because of religious beliefs."

The logic of this proposed law—treating all barbers alike—is that no barber can engage in the occupation of barbering on Saturday, unless he "refrains" from the practice of barbering on Sunday "solely because of religious beliefs."

Thus this proposed law places every barber under a religious test if he barbers or does not barber on Sundays. The Constitution of the United States expressly states that "no religious test shall ever be required as a qualification to any office or public trust under the United States." If the important office of President of the United States does not require a religious test to qualify for that high office, why should it be deemed necessary to place a religious test upon a barber to qualify for that simple trade and occupation?

Some twenty-five similar barber bills, requiring barbers to observe Sunday for religious reasons, have been introduced into Congress during the past forty years; yet thus far Congress has refused to enact a single one of these religious measures into law. The First Amendment to the Constitution expressly prohibits Congress from enacting any kind of religious law, or prohibiting the free exercise of religion. That is the reason why Congress has not enacted any kind of Sunday-observance requirement for the District of Columbia, over which it holds jurisdiction.

Every American citizen should protest against the enactment of these two un-American measures. The Senate bill is known as S.1270 and the House bill as H.R.3291. The barbers are now prohibited from operating their barbershops seven days a week. Every barber is required to close his shop or cease the occupation of barbering one day out of every seven each week under the present barber law operating in the District of Columbia. The police department says the present law is working well, and not one barber had to be arrested during the four years that this law has been in operation. But somebody wants all the barbers to observe Sunday by law instead of voluntarily.

If Congress should ever enact a Sunday-observance law, it would establish a most dangerous precedent. It would open the floodgates to a deluge of religious legislation, and the result would be the destruction of all our constitutional guaranties of religious freedom. Every citizen should write a letter to his Senator and Representative in Congress, and give reasons why he should vote against this anti-Christian, un-American, antiquated religious measure. Eternal vigilance is still the price of liberty.

C. S. L.

Every Liberty-Loving Citizen Should Protest

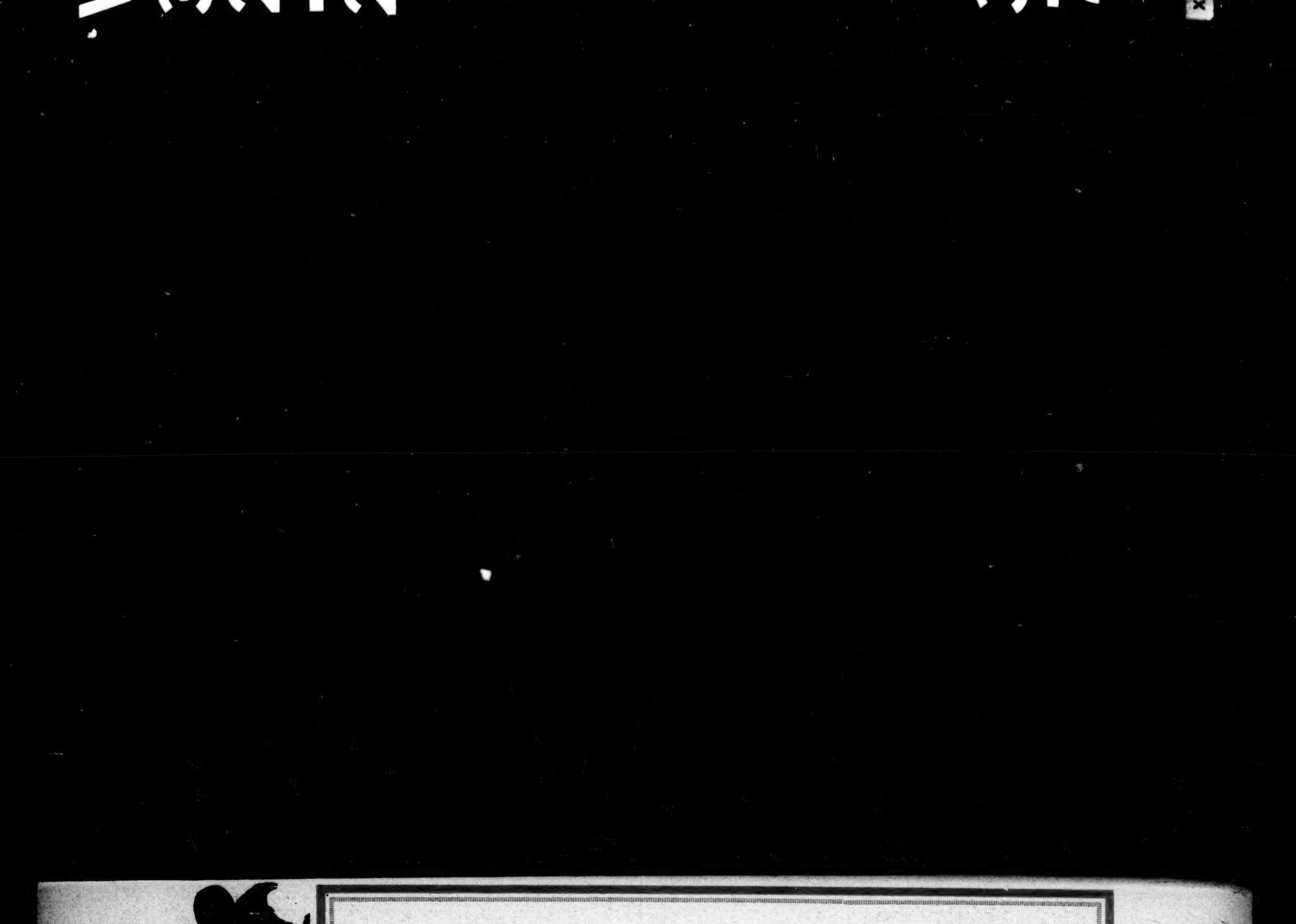
LET every lover of religious liberty send a letter of protest to his Senator and Representative in Congress, requesting them to oppose the above bills, S. 1270 and H. R. 3291, now pending in Congress.

The Bulwark of Our Republic

DOWN IN OUR HEARTS we know that so long as the Constitution stands the Republic will stand; so long as the Constitution stands our rights are secure, our homes our own, and none may make us afraid. It restrains the overreaching hand of power. It stops the army on the threshold of the cabin. It asserts the dignity of man, his place in the earth, and the freedom of his soul.

Congress is mighty, but the Constitution is mightier. Presidents are powerful, but the Constitution is more powerful. Courts are great, but the Constitution is greater. Laws are strong, but the Constitution is stronger. And it is so because the Constitution is the expressed will of all the people, the supreme law of the land, to be altered only by themselves, and therefore the living soul of democracy.

The Court and the Constitution, they stand or fall together. The Constitution creates the Court, and the Court declares and maintains the Constitution. To weaken one is to weaken the other. To destroy one is to destroy the other. To weaken either is to weaken the foundations of our Republic; to destroy either is to destroy the Republic.—*U. S. Senator Josiah W. Bailey, of North Carolina, in Congressional Record, Feb. 15, 1937, p. 1487.*



EXTRA—Two Sunday-Observance Bills Before Congress

LIBERTY

A MAGAZINE OF RELIGIOUS FREEDOM

AWAKE, AMERICANS!

Guard Your Constitutional Liberties

Religious Legislation Pending

TWO COMPULSORY Sunday-observance bills, identical in nature, were introduced in Congress, one in the Senate and the other in the House of Representatives, compelling barbers to close their shops on Sunday. Such legislation is in violation of the First Amendment to the Federal Constitution, which forbids Congress to make any law looking toward the establishment of religion or prohibiting the free exercise of the conscience in religious matters.

To compel a barber to close his shop on Sunday or cease laboring on Sunday, is an interference with religious rights and personal liberty. Sunday observance is a religious requirement, and when Congress compels a man to observe Sunday by law, it is religious legislation, and is in violation of the Constitution. The Supreme Court of the United States has interpreted the First Amendment and the limitations it has placed upon the powers of Congress thus:

"The First Amendment to the Constitution, in declaring that Congress shall make no law respecting the establishment of religion or forbidding the free exercise thereof, was intended to allow every one under the jurisdiction of the United States to entertain such notions respecting his relations to his Maker and the duties they impose as may be approved by his judgment and conscience, and to exhibit his sentiments in such form of worship as he may think proper, not injurious to the equal rights of others, and to prohibit legislation for the support of any religious tenets, or the mode of worship of any sect."—*133 U.S. 342.*

The proposed bills compel barbers to observe either "Sunday" or "Saturday solely because of religious beliefs." That is purely religious legislation. It establishes a most dangerous precedent, which will doubtless be followed up, leading to drastic religious legislation of every kind.

Every lover of liberty should send personal letters to his Senator and Congressman, protesting against this un-American religious legislation. He may use the petition on page 7 of this magazine, securing as many signatures as possible against the proposed bills, and send it with his letter to his Congressmen.

Explanatory Note

This *Liberty* Extra deals with two compulsory Sunday-observance bills introduced in the Seventy-fifth Congress and now pending before the Senate District of Columbia Committee and the House District of Columbia Committee. These bills are exactly alike. One was introduced by Senator Royal S. Copeland of New York, known as S. 1270, and the other was introduced in the House by Representative James L. Quinn of Pennsylvania, and is known as H.R. 3291.

Both of these religious measures are ostensibly for the District of Columbia, but as their sponsors have repeatedly asserted on former occasions, their ultimate design is to serve as a model and national legal precedent for a Sunday-observance law for the whole nation, under the guise of the exercise of the police power of the Federal Government.

These bills to close barbershops and to prohibit "barbering" on Sundays, include "haircutting, shaving, or trimming the beard; singeing or shampooing the hair or applying hair tonic; massaging the face or scalp by hand, mechanical, or electrical apparatus; and applying lotions, creams, oils, clays, or other preparations to the scalp, face, or neck."

In the past, the Lord's Day Alliance framed such bills and had Congressmen introduce them. Of late, the Barbers' Union has introduced and sponsored these bills. More than twenty-five such bills have been introduced during the last thirty-five years, but so far Congress has turned a deaf ear to all these religious proposals, and has considered the subject matter beyond their constitutional prerogative to enact into law. In this respect Congress has followed a consistent course in harmony with the provisions of the Federal Constitution.

Section 14 of these bills reads as follows: "It shall be unlawful . . . (6) To maintain or operate any establishment in the District of Columbia wherein the occupation or trade of barbering is conducted on Sunday, except that the foregoing provisions of this paragraph shall not apply to persons who actually refrain from the practice of such occupation or trade on Saturday solely because of religious beliefs."

This paragraph is the real objective of the proposed legislation, and it reveals the unmistakable fact that it is religious legislation. The fact that the proposed law requires that certain days be observed, or that persons "actually refrain from the practice of such occupation or trade" on specified days which are religiously observed by different sects "solely because of religious beliefs," reveals it to be a strictly religious requirement. Such phraseology is purely religious, and it reveals the real character of the proposed legislation. To call such a law a civil law would be the same as calling a wolf a lamb.

In view of the imminent danger which threatens the overthrow of constitutional liberties, and the establishment of a dangerous precedent which inevitably will be followed with a deluge of religious legislation, every American citizen who cherishes his matchless heritage of religious freedom, should act promptly in the effort to defeat this far-reaching and mischievous religious legislation. Since we did not have opportunity to deal effectively with this matter in the regular issue of the second quarter of the *Liberty* magazine, we are issuing this Extra, hoping that its circulation will reach millions, and cause them to send letters of protest and petitions filled with signatures against these pernicious bills.

If any of these Sunday bills should ever be enacted into law by Congress, and God forbid that they ever shall be, such action would open the floodgates of religious legislation, the constitutional guaranties of civil and religious liberty vouchsafed to each individual would be overridden, and religious persecution would be inevitable.

There is no occasion for the proposed Sunday-closing clause in this barber bill, because, under the present barber law enacted by Congress four years ago, every barber in the District of Columbia has to rest one day of twenty-four consecutive hours in every week. None can work seven consecutive days in any week. It becomes apparent, therefore, that the proposed Sunday-observance requirement is purely a piece of religious legislation, entirely void of any civil aspects. It cannot be urged as a health measure, because a person can rest for health reasons just as well on Monday as on Sunday.

We urge you to secure as many signatures as possible to the petition on page 7 of this Extra. Cut it off and paste extra sheets of paper on the bottom to accommodate more signatures, and send it to your Senator or your Representative in Congress.

The price of this Extra is two cents a single copy, $1.25 a hundred, $5.75 for five hundred, or $10 a thousand. Let every lover of liberty enter this campaign in defense of our natural and God-given liberties. Address all orders to *Liberty* Magazine, Takoma Park, Washington, D.C. C. S. Longacre.

LIBERTY, A Magazine of Religious Freedom

Editor, Charles S. Longacre; Associate Editors, Heber H. Votaw and Calvin P. Bollman; Managing Editor, Thomas M. French.

Liberty is published quarterly by the Review and Herald Publishing Association, Takoma Park, Washington, D.C. Entered as second-class matter May 1, 1906, at the post office at Washington, D.C., under the Act of Congress of March 3, 1879. Subscription rates: One year, 50 cents; club of four or more subscriptions to separate addresses, 25 cents each; five or more copies, mailed by publishers to five addresses or to one address, postpaid, each 9 cents. No subscriptions for less than one year received. Remit by post office money order (payable at Washington, D.C., post office), express order, or draft on New York. Cash should be sent in registered letter. When a change of address is desired, both old and new addresses must be given. No extra charge to foreign countries.

This Extra: $1.25 per hundred, or $10 per thousand. Five to twenty-five copies mailed by publishers to one address or to separate addresses, postpaid, each two cents.

Send all orders to LIBERTY Magazine, Takoma Park, Washington, D.C.

Shall Congress Prescribe Your Religion?

Two Sunday-Observance Bills

by C. S. LONGACRE

DURING THE LAST FORTY YEARS, about one hundred fifty compulsory Sunday-observance bills have been introduced into Congress. We hope the Seventy-fifth Congress will follow the worthy example of all its predecessors by upholding the American ideals and principles of a complete separation of church and state in civil government, and by refusing to enact compulsory Sunday-observance legislation.

For the first one hundred years of the history of our Republic, not a single compulsory Sunday-observance bill was introduced into Congress. The ideals of the founders of the American Republic were remembered for at least three consecutive generations, and no one dared to introduce a religious measure into Congress for fear of being denounced as a traitor to his government or a betrayer of constitutional guaranties of human rights.

The National Reform Association, which called the American Constitution "a dangerous weapon" in the hands of secularists, dared in 1888 to introduce the first compulsory Sunday-observance bill as a national Sunday law for all the people in the United States and its Territories. It was a bold step, which has been followed up by various religious organizations. In one session of Congress since, as many as eleven compulsory Sunday-observance bills were introduced by the Lord's Day Alliance of America, the National Reform Association, the American Sabbath Union, and other religious organizations. But not one of these religious bills has become a law to plague the people. Congress has been loyal to the Constitution all these one hundred fifty years.

The First Amendment to the Constitution expressly prohibits Congress from enacting a law compelling any of its citizens to observe Sunday or "Saturday solely because of religious beliefs," as the barber Sunday bill requires. The Supreme Court has declared that Congress is prohibited, under the First Amendment, from enacting any law of a religious nature that would interfere with the free exercise of the conscience, and that this Amendment prohibits legislation giving support to any religious tenets or the mode of worship of any sect.

Congress does not grant religious rights, as this barber Sunday bill assumes to do. This barber bill says that no one who observes Saturday can do any barbering on Sunday, unless he first, as a conditional requirement, rests on "Saturday solely because of religious beliefs." If Congress should enact such a bill into law, it would compel every seventh-day observer who is a barber to observe Saturday solely because of religious beliefs. It would make his "religious beliefs" the deciding factor in the question of whether he shall do any barbering on Sunday. Thus Congress is placed in a position of granting a natural God-given right to a seventh-day observer, or depriving him of this natural right unless he observes "Saturday solely because of religious beliefs."

The Supreme Court of the United States has expressly declared that every citizen in the United States has this right without any grant from the government. The highest Court says: "In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect."—*13 Wallace, U.S. 728.*

In the face of this decision from the Supreme Court of the United States, how can Congress require a barber to observe "Saturday solely because of religious beliefs" in order to be permitted to do any barbering on Sunday, or how can it possibly compel the other barbers to observe Sunday as holy time when Congress is required by the First Amendment to commit itself by legislation "to the support of no dogma," nor "the support of any religious tenets"? Congress does not grant natural, God-given rights. It merely protects the individual in the enjoyment of those rights.

There is not a single compulsory Sunday-observance law on the Federal statute books for any of the territory over which the Federal Government holds absolute jurisdiction. This fact has greatly annoyed a certain class of religious zealots; hence these repeated attempts to fasten a Sunday-observance law upon the District of Columbia.

Inconsistency of Sunday Advocates

In the past, those who have been responsible for the introduction of Sunday-observance bills into

Explanatory Note

This *Liberty* Extra deals with two compulsory Sunday-observance bills introduced in the Seventy-fifth Congress and now pending before the Senate District of Columbia Committee and the House District of Columbia Committee. These bills are exactly alike. One was introduced by Senator Royal S. Copeland of New York, known as S. 1270, and the other was introduced in the House by Representative James L. Quinn of Pennsylvania, and is known as H.R. 3291.

Both of these religious measures are ostensibly for the District of Columbia, but as their sponsors have repeatedly asserted on former occasions, their ultimate design is to serve as a model and national legal precedent for a Sunday-observance law for the whole nation, under the guise of the exercise of the police power of the Federal Government.

These bills to close barbershops and to prohibit "barbering" on Sundays, include "haircutting, shaving, or trimming the beard; singeing or shampooing the hair or applying hair tonic; massaging the face or scalp by hand, mechanical, or electrical apparatus; and applying lotions, creams, oils, clays, or other preparations to the scalp, face, or neck."

In the past, the Lord's Day Alliance framed such bills and had Congressmen introduce them. Of late, the Barbers' Union has introduced and sponsored these bills. More than twenty-five such bills have been introduced during the last thirty-five years, but so far Congress has turned a deaf ear to all these religious proposals, and has considered the subject matter beyond their constitutional prerogative to enact into law. In this respect Congress has followed a consistent course in harmony with the provisions of the Federal Constitution.

Section 14 of these bills reads as follows: "It shall be unlawful . . . (6) To maintain or operate any establishment in the District of Columbia wherein the occupation or trade of barbering is conducted on Sunday, except that the foregoing provisions of this paragraph shall not apply to persons who actually refrain from the practice of such occupation or trade on Saturday solely because of religious beliefs."

This paragraph is the real objective of the proposed legislation, and it reveals the unmistakable fact that it is religious legislation. The fact that the proposed law requires that certain days be observed, or that persons "actually refrain from the practice of such occupation or trade" on specified days which are religiously observed by different sects "solely because of religious beliefs," reveals it to be a strictly religious requirement. Such phraseology is purely religious, and it reveals the real character of the proposed legislation. To call such a law a civil law would be the same as calling a wolf a lamb.

In view of the imminent danger which threatens the overthrow of constitutional liberties, and the establishment of a dangerous precedent which inevitably will be followed with a deluge of religious legislation, every American citizen who cherishes his matchless heritage of religious freedom, should act promptly in the effort to defeat this far-reaching and mischievous religious legislation. Since we did not have opportunity to deal effectively with this matter in the regular issue of the second quarter of the *Liberty* magazine, we are issuing this Extra, hoping that its circulation will reach millions, and cause them to send letters of protest and petitions filled with signatures against these pernicious bills.

If any of these Sunday bills should ever be enacted into law by Congress, and God forbid that they ever shall be, such action would open the floodgates of religious legislation, the constitutional guaranties of civil and religious liberty vouchsafed to each individual would be overridden, and religious persecution would be inevitable.

There is no occasion for the proposed Sunday-closing clause in this barber bill, because, under the present barber law enacted by Congress four years ago, every barber in the District of Columbia has to rest one day of twenty-four consecutive hours in every week. None can work seven consecutive days in any week. It becomes apparent, therefore, that the proposed Sunday-observance requirement is purely a piece of religious legislation, entirely void of any civil aspects. It cannot be urged as a health measure, because a person can rest for health reasons just as well on Monday as on Sunday.

We urge you to secure as many signatures as possible to the petition on page 7 of this Extra. Cut it off and paste extra sheets of paper on the bottom to accommodate more signatures, and send it to your Senator or your Representative in Congress.

The price of this Extra is two cents a single copy, $1.25 a hundred, $5.75 for five hundred, or $10 a thousand. Let every lover of liberty enter this campaign in defense of our natural and God-given liberties. Address all orders to *Liberty* Magazine, Takoma Park, Washington, D.C.

C. S. Longacre.

LIBERTY, A Magazine of Religious Freedom

Editor, Charles S. Longacre; Associate Editors, Heber H. Votaw and Calvin P. Bollman; Managing Editor, Thomas M. French.

Liberty is published quarterly by the Review and Herald Publishing Association, Takoma Park, Washington, D.C. Entered as second-class matter May 1, 1906, at the post office at Washington, D.C., under the Act of Congress of March 3, 1879. Subscription rates: One year, 50 cents; club of four or more subscriptions to separate addresses, 25 cents each; five or more copies, mailed by publishers to five addresses or to one address, postpaid, each 9 cents. No subscriptions for less than one year received. Remit by post office money order (payable at Washington, D.C., post office), express order, or draft on New York. Cash should be sent in registered letter. When a change of address is desired, both old and new addresses must be given. No extra charge to foreign countries.

This Extra: $1.25 per hundred, or $10 per thousand. Five to twenty-five copies mailed by publishers to one address or to separate addresses, postpaid, each two cents.

Send all orders to LIBERTY Magazine, Takoma Park, Washington, D.C.

Shall Congress Prescribe Your Religion?

Two Sunday-Observance Bills

by C. S. LONGACRE

DURING THE LAST FORTY YEARS, about one hundred fifty compulsory Sunday-observance bills have been introduced into Congress. We hope the Seventy-fifth Congress will follow the worthy example of all its predecessors by upholding the American ideals and principles of a complete separation of church and state in civil government, and by refusing to enact compulsory Sunday-observance legislation.

For the first one hundred years of the history of our Republic, not a single compulsory Sunday-observance bill was introduced into Congress. The ideals of the founders of the American Republic were remembered for at least three consecutive generations, and no one dared to introduce a religious measure into Congress for fear of being denounced as a traitor to his government or a betrayer of constitutional guaranties of human rights.

The National Reform Association, which called the American Constitution "a dangerous weapon" in the hands of secularists, dared in 1888 to introduce the first compulsory Sunday-observance bill as a national Sunday law for all the people in the United States and its Territories. It was a bold step, which has been followed up by various religious organizations. In one session of Congress since, as many as eleven compulsory Sunday-observance bills were introduced by the Lord's Day Alliance of America, the National Reform Association, the American Sabbath Union, and other religious organizations. But not one of these religious bills has become a law to plague the people. Congress has been loyal to the Constitution all these one hundred fifty years.

The First Amendment to the Constitution expressly prohibits Congress from enacting a law compelling any of its citizens to observe Sunday or "Saturday solely because of religious beliefs," as the barber Sunday bill requires. The Supreme Court has declared that Congress is prohibited, under the First Amendment, from enacting any law of a religious nature that would interfere with the free exercise of the conscience, and that this Amendment prohibits legislation giving support to any religious tenets or the mode of worship of any sect.

Congress does not grant religious rights, as this barber Sunday bill assumes to do. This barber bill says that no one who observes Saturday can do any barbering on Sunday, unless he first, as a conditional requirement, rests on "Saturday solely because of religious beliefs." If Congress should enact such a bill into law, it would compel every seventh-day observer who is a barber to observe Saturday solely because of religious beliefs. It would make his "religious beliefs" the deciding factor in the question of whether he shall do any barbering on Sunday. Thus Congress is placed in a position of granting a natural God-given right to a seventh-day observer, or depriving him of this natural right unless he observes "Saturday solely because of religious beliefs."

The Supreme Court of the United States has expressly declared that every citizen in the United States has this right without any grant from the government. The highest Court says: "In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect."—*13 Wallace, U.S. 728.*

In the face of this decision from the Supreme Court of the United States, how can Congress require a barber to observe "Saturday solely because of religious beliefs" in order to be permitted to do any barbering on Sunday, or how can it possibly compel the other barbers to observe Sunday as holy time when Congress is required by the First Amendment to commit itself by legislation "to the support of no dogma," nor "the support of any religious tenets"? Congress does not grant natural, God-given rights. It merely protects the individual in the enjoyment of those rights.

There is not a single compulsory Sunday-observance law on the Federal statute books for any of the territory over which the Federal Government holds absolute jurisdiction. This fact has greatly annoyed a certain class of religious zealots; hence these repeated attempts to fasten a Sunday-observance law upon the District of Columbia.

Inconsistency of Sunday Advocates

In the past, those who have been responsible for the introduction of Sunday-observance bills into

Congress have always argued that they were not asking for this legislation for religious reasons, but for health reasons. When we suggested to our lawmakers that a person could rest on any day of the week, as well as on a particular day, for health reasons, they agreed, and passed a one-day-of-rest-in-seven law for the barbers in the District of Columbia. Such a law has been in force for the last four years, and the police department states that it has worked admirably. They say that every barber selects his own day of rest, and registers the same with the health department of the District of Columbia, and so far no one has had to be arrested for the violation of this one-day-in-seven-rest law.

But the Sunday-law zealots are not satisfied with this law, because all the barbers do not choose to rest on Sunday. How inconsistent was the health argument! It is now clear that it was a mere subterfuge. The thing they were gunning for was not the health and welfare of the barber, else they would be perfectly satisfied with the present one-day-rest law, leaving each barber to choose his own day of rest. What the proponents of these bills are really after is a Sunday-rest law, which they want to force on everybody. The bills betray the religious motive when they say that the rest day must be observed "solely because of religious beliefs."

Dangerous Commitment

Some one says, "Why bother about the barbers? Even if Congress should close all barbershops on Sunday, the rest of us are still free to do as we please on Sundays." Ah! right there is where you are mistaken. All history teaches that the worst religious persecutions and tyrannies had apparently innocent beginnings. The worst inundation of water the Netherlands ever suffered started with a very small leak in the dikes. If Congress should enact just one compulsory Sunday-observance law for the barbers in the District of Columbia, do you suppose the matter would stop there? Not on your life! It would be used as a precedent to close up the baseball parks on Sunday, the theaters, the mercantile establishments, and everything else that did not come under works of necessity and charity, no matter how honorable and legitimate those acts might be on the other six days of the week.

The most innocent-appearing religious legislation has a veritable inferno couched in its very incipiency. The first step in that direction leads to a second and a third, and finally winds up with inquisitorial persecution and the sacrifice and surrender of all our liberties. We must deny Congress the right to take the first step in that direction, or it may usurp all our liberties in the end.

For years the Lord's Day Alliance and the National Reform Association have labored with unceasing efforts to get Congress committed to the principle of religious legislation through such apparently innocent beginnings as closing barbershops on Sunday in the District of Columbia. They have repeatedly admitted that this is just the entering wedge for other Sunday legislation to follow. They say their program includes a national Sunday-observance law for all the people in the United States.

If Congress should ever yield to the demand from these church organizations, our heritage of civil and religious liberty would be doomed in America. This is not a question of minor importance. It is one of deepest concern to every American citizen. We must take alarm at the first invasion of our constitutional liberties.

It may be of interest to know that California, like the District of Columbia, does not have a single Sunday-observance law upon its statute books. Recently the militant political preachers of California induced the Union Barbers' Association to submit a proposal on a State-wide referendum to close all barbershops on Sunday in California. Did the people of California, who have had no Sunday laws upon their statute books for more than fifty years, think that this was a piece of innocent legislation? Did they think it was none of their business, but concerned only the barbers? Indeed not! When the vote was counted, the people of California rolled up a record of 1,047,926 negative votes against closing the barbershops on Sunday, or a majority of 833,393 votes against Sunday-observance legislation—a record vote for religious liberty. It was a victory for freedom of more than five to one. They saw, as all lovers of religious liberty must see, a grave danger lurking in the very incipiency of such apparently mild legislation.

There is still, in human nature, even among advocates of Christianity, a tendency to inflict religious persecution, the same as in ages past. The only check the government has against this dominant spirit of well-meaning but misguided religious zealots, is for the civil government to take a position of absolute neutrality upon every religious question, and deprive the civil magistrates of the power and the opportunity to enforce religious obligations.

These barber bills, if enacted into law by Congress, would put a cudgel in the hands of the police and the civil magistrates to enforce a religious obligation, and a nonconformist or dissenter would be subject to a possible penalty of a $200 fine or ninety days' imprisonment, "or both." That is a terrible price for any American citizen to pay for asserting his religious freedom in America. Religious freedom is an inalienable right and a free gift from God, and Congress has no constitutional right to place a penalty upon any citizen for asserting his right to religious freedom in America.

Why Sunday Laws Are Wrong

by HEBER H. VOTAW

CIVIL SUNDAY LAWS, in common with other laws that attempt to control or direct the individual by the power of the state in matters that pertain to his duty toward his Creator, are both un-American and unchristian.

Why They Are Un-American

When Americans first asserted their independence of the mother country and mutually pledged to each other their lives, their fortunes, and their sacred honor, it was in defense of the proposition that "all men . . . are endowed by their Creator with certain inalienable rights," and "that among these are life, liberty, and the pursuit of happiness."

The Constitution, as originally submitted to the States, was opposed by many citizens because they felt that their religious rights were not sufficiently safeguarded, even though Article VI provided that "no religious test shall ever be required as a qualification to any office or public trust under the United States." It seems evident that it would not have been ratified by a number of States sufficient for its establishment but for the fact that the leaders of public thought pledged their efforts to secure necessary safeguards to essential liberty in the form of amendments. The very first of these provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Congress should never be asked to pass Sunday laws, because Sunday laws are religious laws, and Congress is forbidden by the Constitution to make any law "respecting an establishment of religion." If it be said that the words of the amendment only provide protection against an established church,—against choosing one particular church body and designating it as the state church,—it should be sufficient to reply that to choose a particular day and designate it as the religious day recognized by the government and protected by its laws, is to make a law respecting an establishment of religion.

Sunday Laws Religious Laws

Sunday laws are religious laws. By no logical system of reasoning can they be classed as anything else. Sunday has no claim to superiority above other days, except the claim made by its devotees that it is a day of worship and rest, a sacred day. Remove this, and Sunday stands on a par with all other days. Leave this, and Sunday appears as a religious day, and all laws concerning its observance are seen in their true light as religious laws.

Laws respecting religion are un-American and unconstitutional. Col. Richard M. Johnson, who, during a long public life, served both in the House of Representatives and in the Senate, and also as Vice-President of the United States, was chairman of a Senate committee to which were referred petitions asking that the mails be stopped on Sunday. His report declared, "The proper object of government is to protect all persons in the enjoyment of their religious as well as civil rights, and not to determine for any whether they shall esteem one day above another, or esteem all days alike holy." Again the report said: "It is not the legitimate province of the legislature to determine what religion is true or what false." "If the principle is once established that religion, or religious observances, shall be interwoven with our legislative acts, we must pursue it to its ultimatum. . . . What other nations call religious toleration, we call religious rights. They are not exercised in virtue of governmental indulgence, but as rights, of which government cannot deprive any portion of citizens, however small. Despotic power may invade those rights, but justice still confirms them."

All this is sound American doctrine. Jefferson, in his "Act for Establishing Religious Freedom," declared "that Almighty God hath created the mind free; that all attempts to influence it by temporal punishments or burdens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy Author of our religion, who being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in His almighty power to do."—*"Collection of the Laws of Virginia," by W. W. Hening, Vol. XII, p. 84.*

Writing to the Hebrew congregation at Newport, Rhode Island, Washington said: "The citizens of the United States of America have the right to applaud themselves for having given to mankind examples of an enlarged and liberal policy—a policy worthy of imitation. All possess alike liberty of conscience and immunities of citizenship. It is now no more that toleration is spoken of as if it was by the indulgence of one class of people that another enjoyed the exercise of their inherent natural right. For happily the government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection shall demean themselves as good citizens."

To the Quakers he wrote: "The liberty enjoyed

by the people of these States of worshiping Almighty God agreeable to their consciences, is not only among the choicest of their *blessings,* but also of their *rights.* While men perform their social duties faithfully, they do all that society or the state can with propriety demand or expect; and remain responsible only to their Maker for the religion or modes of faith which they may prefer or profess."

As early as June 12, 1776, a convention of the "representatives of the good people of Virginia," of which Patrick Henry, Madison, and Mason were members, drew up the Virginia Declaration of Rights. The last article says, "That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience." The final wording of this article is credited to Madison. In another place he declared, "There is not a shadow of right in the general government to intermeddle with religion. Its least interference with it would be a most flagrant usurpation." In a letter to Edward Everett, Madison said, "Religion is essentially distinct from civil government, and exempt from its cognizance. . . . A connection between them is injurious to both."

The fact that Sunday laws are found on the statute books of many States proves nothing. After the forming of the Federal Union, some States kept their church establishments. Massachusetts did not disestablish its state church till 1835, while Connecticut had separated church and state only in 1834. Though such a union was plainly contrary to both the letter and the spirit of the Constitution, local sentiment preserved it. Any kind of religious law is an anachronism; yet well-meaning but misguided people demand that those on the statute books be retained, and often urge that other and more stringent laws be enacted. When will men learn that both church and state are stronger when separated than when united?

Why Religio-Civil Laws Are Unchristian

Free choice is the essence of Christianity. Jesus Christ declared that His kingdom was not of this world. He taught that men have distinct and separate obligations toward religion and government, saying, "Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's." Matt. 22:21. Even in the matter of the observance of holy days the Scriptures are not silent. Said Paul, "One man esteemeth one day above another: another esteemeth every day alike. Let every man be fully persuaded in his own mind." Rom. 14:5.

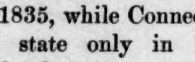
A civil law which demands observance of a religious rite without permitting a man to be "fully persuaded in his own mind," is contrary to all Scriptural teaching and is unchristian.

The attempt to enforce any matter of religion by civil law divides all society into three classes. The first believe in the law, and would observe the rite whether the civil power demanded it or not. The second do not believe, but through fear give outward obedience. This class are hypocrites. The third do not believe and cannot obey because conscience forbids. This class become martyrs.

The attempt to use the arm of the state to punish infractions of religious law, places in the hands of men that which belongs alone to God. It presupposes the power of men to read the minds and judge the motives of their fellows.

If the state has a right to enforce a religious enactment with respect to the observance of a day of rest, why may it not do so concerning baptism? How many would approve of the state's declaring that immersion, and immersion only, is the Scriptural mode of baptism, and attempting to enforce penalties upon any one refusing the rite? Further, if the state can decide on matters of Sabbath observance, why may it not also decide concerning the Lord's supper, and attempt to tell the citizens how often and when the communion shall be received?

Sunday observance is a religious act, and can be of worth only while done as a matter of conscience. It is worth repeating that all Sunday laws are unchristian.



IMPORTANT NOTICE

Kindly start the list of protests to the petition on page 7 with your own name, and secure as many other signatures as possible. Paste extra sheets of white paper at the bottom for additional names, after cutting the petition out of the magazine as indicated.

To make the work effective, fill out two petitions, one for your Senator and the other for your Representative in Congress, sending one to the Senator, care of Senate Office Building, and the other to your Representative, care of House Office Building, Washington, D.C. A personal letter accompanying it will be appreciated. This will be a live issue till Congress adjourns in the fall of 1938.

This Extra can be secured at 2 cents a single copy, $1.25 a hundred, $5.75 for five hundred, or $10 a thousand copies. If you desire further information to assist you in prosecuting this work, address Editor of *Liberty* Magazine, Takoma Park, Washington, D.C.

PETITION TO CONGRESS

To the Honorable, the Senate and House of Representatives of the United States in Congress assembled:

Believing:

1. In the American principle of the total separation of church and state; and,

2. That Congress is prohibited by the First Amendment to the Constitution from enacting any law for the enforcement of the observance of any religious institution, or taking any step in the direction of a union of church and state, or uniting religion and civil government; and,

3. That the observance of a religious institution is a form or act of worship, and that prohibition of secular labor and business on any stated day of the week is demanded chiefly if not wholly for religious reasons; and,

4. That such legislation is not only subversive of religious liberty, but is opposed to the best interests of both church and state; and,

5. That all such legislation is dangerous and should be opposed by every lover of liberty of conscience and every friend of pure and undefiled religion; therefore,

We, the undersigned, adult residents of ....., State of ....., earnestly petition your Honorable Body not to pass S.1270 or H.R.3291, both of which are compulsory Sunday-observance bills, requiring barbers in the District of Columbia to "refrain from the practice of such occupation or trade" "on Sunday" or "on Saturday solely because of religious beliefs."

NAMES	ADDRESSES

For additional names, paste extra sheets at bottom.

75th Congress
1st Session

S. 1270 and H.R. 3291

[Similar]

A BILL

To regulate barbers in the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the District of Columbia Barber Act. . . .

The term "barbering" means any of the following practices when done for the public generally for compensation or otherwise: Hair-cutting, shaving, or trimming the beard; singeing or shampooing the hair or applying hair tonic; massaging the face or scalp by hand, mechanical, or electrical apparatus; and applying lotions, creams, oils, clays, or other preparations to the scalp, face, or neck.

SEC. 3. There is hereby created a Board of Barber Examiners for the District of Columbia. The Board shall consist of three qualified barbers, two journeymen and one master barber, each of whom shall have been engaged in the practice of barbering in the District of Columbia for a period of five years immediately prior to their appointment. The members of the Board shall be appointed by the Commissioners of the District of Columbia, one for the term of one year, one for the term of two years, and one for the term of three years. Thereafter one member of said Board shall be appointed each year for the term of three years and shall hold office until his successor is appointed and qualified. . . .

SEC. 4. The Board shall issue a certificate of registration as a registered barber to any person of good moral character and temperate habits who has practiced as a registered barber apprentice for two years under the immediate personal supervision of a registered barber, and who passes an examination, conducted by the Board to determine his fitness to practice barbering, accompanied by a health certificate issued by a registered licensed physician of the District of Columbia under oath. . . .

SEC. 6. The Board shall conduct examinations of applicants for certificates of registration as registered barbers or registered barber apprentices on the third Tuesdays in January, April, July, and October, at such hours as the Board shall prescribe. Such examinations shall include both a practical demonstration and a written examination.

SEC. 7. Any person who has engaged in the practice of barbering in the District of Columbia for one year immediately preceding the date of enactment of this Act shall be granted a certificate as a registered barber without examination by making application and paying the required fee within thirty days of enactment of this Act; failing to do so, he must take an examination according to the law; and any other person engaged in the practice of barbering in the District of Columbia on the date of enactment of this Act shall be granted a certificate as a registered barber apprentice without examination by making application and paying the required fee, and the time spent engaged in the practice of barbering shall be credited to him as a part of the time required to be spent as a registered barber apprentice for the purpose of qualifying as a registered barber, but must be accompanied by a health certificate issued by a registered licensed physician of the District of Columbia under oath. . . .

SEC. 9. Certificates issued by the Board shall be renewed annually upon application to the Board by the holder of the certificate. The Board shall renew or restore certificates which have expired upon application and payment of the required fee, accompanied by a health certificate annually.

SEC. 10. The Board may refuse to issue, renew, restore, or may revoke a certificate for habitual drunkenness or habitual addiction to the use of morphine, cocaine, or any other habit-forming drug or for the violation of any of the provisions of this Act, but such action may be taken by the Board only after notice of an appeal from the persons affected, and an opportunity for a full hearing is given to the person affected thereby.

An appeal may be taken from any action of the Board to the District Court of the United States for the District of Columbia. The judgment of such court shall be final, subject to review by the United States Court of Appeals for the District of Columbia.

SEC. 11. The collector of taxes of the District of Columbia shall collect the following fees:

(a) For the examination of an applicant for a certificate as a registered barber, $5.
(b) For the issuance or renewal of such certificate, $5.
(c) For the restoration of an expired certificate as a registered barber, $5.
(d) For the examination of an applicant for a certificate as a registered barber apprentice, $5.
(e) For the issuance or renewal of such certificate, $5.
(f) For the restoration of an expired certificate as a registered barber apprentice, $5.
(g) $50 for barber school or college, and $25 annual renewal fee.

SEC. 12. The Commissioners are authorized and directed to provide suitable quarters for examinations and equipment to the Board and for the compensation of the members of the Board at the rate of $9 per day for the time actually and necessarily spent in their duties as such members and for the payment of expenses necessarily incurred by the Board in carrying out the provisions of this Act and are also authorized and directed to appoint three inspectors at such salary as the Commissioners may authorize to assist the Board in carrying out the provisions of this Act; said inspectors shall be qualified barbers, each of whom shall have been engaged in the practice of barbering in the District of Columbia for a period of five years immediately prior to their appointment, and shall be appointed after a competitive examination held for said positions by the health officer of the District of Columbia: *Provided*, That payments under this section shall not exceed the amount received from the fees provided for in this Act.

BARBER SCHOOL OR COLLEGE REQUIREMENTS

SEC. 13. No barber school or college shall be granted a certificate of registration unless it shall attach to its staff, as a consultant, a person licensed by the District of Columbia to practice medicine, and employ and maintain a sufficient number of competent instructors registered as such, and shall possess apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum, shall keep a daily record of the attendance of each student, shall maintain regular class and instruction hours, shall establish grades and hold examinations before issuance of diplomas, and shall require a school term of training of not less than one thousand hours within a period of not more than eight hours a working day, two years as apprentice for a complete course of barbering, comprising all or a majority of the practices of cosmetology, as provided by this Act, and to include sanitation, sterilization, and the use of antiseptics, cosmetics, and electrical appliances consistent with the practical and theoretical requirements as applicable to barbering or any practice thereof. In no case shall there be less than one instructor to every ten students.

SEC. 14. (a) It shall be unlawful—

(1) To engage in the practice of barbering in the District of Columbia without a valid certificate as a registered barber, except that a registered barber apprentice may engage in the practice of barbering under the immediate personal supervision of a registered barber.

(2) To engage in the practice of barbering while knowingly afflicted with an infectious or communicable disease.
(3) To employ any person to engage in the practice of barbering except registered barbers and apprentices.
(4) To operate a barbershop unless it is at all times under the personal supervision of a registered barber.
(5) To obtain or attempt to obtain a certificate from the Board for money other than the required fee, or for any other thing of value or by fraudulent misrepresentations. Certificates are not transferable to another person.

(6) To maintain or operate any establishment in the District of Columbia wherein the occupation or trade of barbering is conducted on Sunday, except that the foregoing provisions of this paragraph shall not apply to persons who actually refrain from the practice of such occupation or trade on Saturday solely because of religious beliefs.

(7) To own, manage, operate, or control any barber school or college, part or portion thereof, whether connected therewith or in a separate building, wherein the practice of barbering, as hereinbefore defined, is engaged in or carried on unless all entrances to the place wherein the practice of barbering is so engaged in or carried on shall display a sign indicating that the work therein is done by students exclusively.

(b) Any person violating any of the provisions of this Act shall upon conviction be fined not less than $25 nor more than $200, or imprisoned for not more than ninety days, or both.

SEC. 15. This Act shall take effect thirty days after the date of its enactment.

EXEMPTIONS

SEC. 16. The provisions of this Act shall not be construed to apply to—

(a) Persons authorized by law of the District of Columbia to practice medicine and surgery, osteopathy, or chiropractic, or persons holding a drugless-practitioner certificate under the law of the District of Columbia;
(b) Commissioned medical or surgical officers of the United States Army, Navy, or Marine hospital service;
(c) Registered nurses;
(d) Persons employed in beauty parlors; or
(e) Undertakers and embalmers.

CONSTITUTIONALITY

SEC. 17. Each section, subsection, sentence, clause, and phrase of this Act is declared to be an independent section, subsection, sentence, clause, and phrase; and the finding or holding of any section, subsection, sentence, phrase, or clause to be unconstitutional, void, or ineffective for any cause shall not affect any other section, subsection, sentence, or part thereof.

REPEAL OF OTHER LAWS

SEC. 18. All laws or portions of laws inconsistent with this Act are hereby repealed.